

Rules

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Confidential Information and Records
(LAC 33:I.Chapter 5)(OS050)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.501, 502, 503, 505, 507, 508, 509, and 511 (Log #OS050).

This revision clarifies the procedures for submission of information and records that meet the criteria for confidentiality under R.S. 30:2030 and the Louisiana Public Records Act, R.S. 44:1 et seq. This revision streamlines procedures by separating the types of submissions and what is required for department processing of each type. This revision also clarifies what information and records will and will not be available to the public in favor of maximum availability of non-confidential information. To achieve this goal, which is consistent with and required by the Louisiana Constitution, art. 7, §12, and art. 12, §3, as well as the Public Records Act, R.S. 44:31(B)(1), those members of the public who submit information and records for which they seek confidentiality must carefully delineate how the submission meets the criteria for confidentiality and segregate confidential from non-confidential information that does not meet the criteria for confidentiality. The amendment clarifies that the burden is on the submitter to provide everything necessary for the department to determine whether confidentiality may be granted. The amendment also reduces the burden on the submitter for purely financial information/records submissions; this change will allow streamlined department processing for this category of submissions. This amendment to restructure and clarify the procedures for various types of confidentiality submissions is required based upon the department's experience with submissions under the current regulations. The basis and rationale for this Rule are two-fold. The basis is the need for increased compliance with department requirements for submission of items for which confidentiality is requested and the need for certainty whether each individual item submitted will or will not be available to the public in some form. The rationale is that while certain information or records may meet the criteria for confidentiality, the law requires that, to the extent possible, confidential information be separated so that the public may have access to the non-confidential information.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family

formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 5. Confidential Information Regulations §501. Scope

A. Department of Environmental Quality information and records obtained under the Louisiana Environmental Quality Act, or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested in writing and the information or records are determined by the department to require confidentiality.

B. Unless otherwise provided by law or regulation, information or records may be classified as confidential if the secretary makes a written determination that confidentiality is necessary to:

1. prevent impairment of an ongoing investigation;
2. prevent prejudice to the final decision regarding a violation;
3. protect trade secrets;
4. protect proprietary secrets;
5. protect commercial or financial information; or
6. comply with federal or state law or regulation or a valid court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), LR 30:742 (April 2004).

§502. Definitions

Administrative Authority? repealed.

Air Emission Data? any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of any emission or discharge that has been emitted or discharged by a source; or any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of an emission that, under an applicable standard or limitation, a source was authorized to emit or discharge including, to the extent necessary to identify the source and to distinguish it from other sources, a description of the device, installation, or operation constituting the source. This includes the calculation of an "allowable" emission limit for a permit.

Complete? in reference to a request for confidentiality of information or records, the request contains everything necessary for a determination to be made. Designating a request complete does not preclude the department from requesting or accepting an amended request.

Financial Request? a single character request that contains financial information or records only. This includes, but is

not limited to, financial accounts statements, gross revenues statements, profit and loss statements, projected revenues statements, tax returns, financial/accounting statements, and financial audit documentation/reports.

Mixed Character Record? a record submitted as part of a request for confidentiality that, in addition to information that meets the criteria for confidentiality specified by law, also contains information that either does not meet the criteria for confidentiality specified by law or is prohibited by law or regulation from being classified as confidential.

Mixed Character Request? a request for confidentiality that contains one or more mixed character records.

Single Character Request? a request for confidentiality that contains only information or records that meet the criteria for confidentiality specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended LR 30:742 (April 2004).

§503. Requests for Confidentiality

A. Each request for confidentiality shall include all of the following:

1. a statement whether the request for confidentiality is a single character request, a mixed character request, or a financial request;

2. a list or an index identifying each separate record, category of records, or item of information and stating the legal authority under which each separate record or item of information may be determined to require confidentiality;

3. a statement of the measures taken to guard against undesired disclosure to others of each record or item of information;

4. a statement of the extent to which the information or records have been disclosed to others and the precautions taken in connection therewith;

5. a statement whether disclosure of the information or records would be likely to result in substantial harmful effects in the competitive market and, if so:

- a. a statement of what those effects would be;

- b. a statement of why they should be viewed as substantial; and

- c. an explanation of the causal relationship between disclosure and such harmful effects for each record or item of information;

6. a statement whether any previous request for confidentiality has been made to any government agency for the same information or records and, if so, the date of the request and its disposition; and

7. a certification that all statements are true and correct to the best of the requester's knowledge.

B. Each request shall be submitted with two versions of the information or records; one version to be clearly marked "confidential," and the other to be clearly marked "public."

1. The confidential version is to show all information and must clearly indicate what confidential information is excised from the public version.

2. The public version is to have the confidential information excised and must clearly show that confidential information has been excised.

3. Blacking out confidential portions of otherwise public records is permissible, provided that the blacked-out

portions are clearly identified in both confidential and public versions.

C. A financial request is not required to comply with the provisions of Paragraphs A.2-5 of this Section.

D. A single character request shall include a certification that no record or item of information is contained in the request that:

1. fails to meet the criteria for confidentiality specified by law; or

2. is prohibited by law or regulation from being classified as confidential.

E. Specific categories of information that are prohibited from being classified as confidential include:

1. air emission data;

2. any permit or portion of a permit issued to a source in accordance with LAC 33:III.507;

3. effluent and discharge data to surface water and groundwater;

4. the location and identification of any buried waste;

5. the name and address of any license, registration, or permit applicant or permittee;

6. all NPDES, LPDES, and other water discharge permit applications or permits and information required by LPDES application forms, including information submitted on the forms and any attachments used to supply information required by the forms;

7. any other information required by law or regulation to be disclosed or made available to the public; and

8. any other information for which a claim of confidentiality is prohibited by law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004).

§505. Responses to Requests for Confidentiality

A. The department shall make a determination and send a written response to the requester by certified mail within a reasonable time from receipt of a complete request for confidentiality, except for those requests made in accordance with R.S. 30:2074(D), in which case the department shall send a written response by certified mail within 21 working days from receipt of a complete request for confidentiality.

B. The department's determination shall become final unless, no later than 30 days after receipt of the written determination, the requester files a written request for a hearing.

C. Information or records for which a complete confidentiality request has been submitted shall be held confidential until the department's determination becomes final. Departmental employees, other than those charged with assessing the request for confidentiality, shall not be given access to such information or records, even if necessary for the performance of their jobs, until the department's determination as to confidentiality becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:743 (April 2004).

§507. Accessibility

A. If a request for confidentiality is granted, such confidentiality shall not prevent the necessary use of the information or records by department employees or duly authorized officers or employees of local, state, or federal governments in carrying out their responsibilities under law. The secretary or the secretary's designee must duly authorize any officer or employee of local, state, or federal government who seeks access to confidential information or records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030 and 30:2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

§508. Maintenance of Confidential Information

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

§509. Release of Confidential Information or Records

A. Information or records that are declared confidential to prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation will be made available for public inspection upon conclusion of the investigation or rendition of the final decision regarding a violation.

B. All other information or records that are declared confidential are subject to public disclosure three years from the date of determination of confidentiality, unless a complete request for continuance of confidentiality is received no later than 180 days prior to the expiration of the three-year period.

C. The submitter of information or records or the submitter's successor or assignee shall notify the secretary, by authentic act, of any information or record that is no longer considered to be confidential and shall release the secretary from any responsibility with regard to any claim of confidentiality concerning that record or information.

D. Renewal of a grant of confidentiality is at the discretion of the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:343 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

§511. Disclosure of Confidential Records or Information

A. Any employee or former employee of the department or anyone acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information that has been determined to be confidential is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$1,000, imprisonment for up to one year, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:744 (April 2004).

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Assistant Secretary

0404#026

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Control of Emission of Organic Compounds
(LAC 33:III.2104, 2108, 2115, 2123, 2125,
2143, 2147, 2149, 2151, and 2153)(AQ236)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2104, 2108, 2115, 2123, 2125, 2143, 2147, 2149, 2151, and 2153 (Log #AQ236).

This Rule provides reasonably available control technology (RACT) regulations for sources of VOC emissions in the five-parish Baton Rouge ozone nonattainment area that are subject to the new lower major stationary source threshold of 25 tons per year. This Rule also provides clarification to some language that was unclear or confusing. On April 24, 2003, the Environmental Protection Agency reclassified or "bumped up" by operation of the law the Baton Rouge ozone nonattainment area from a classification of "serious" to "severe", effective June 23, 2003 (68 FR 20077). The five-parish Baton Rouge ozone nonattainment area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Under Section 182(i) of the 1990 Clean Air Act Amendments (CAAA), serious ozone nonattainment areas reclassified to severe are required to submit State Implementation Plan revisions addressing the severe area requirements for the one-hour ozone National Ambient Air Quality Standard. Under Section 182(d) of the 1990 CAAA, severe area plans must include requirements for RACT rules for sources of VOC emissions of 25 tons per year, which is the new lower major threshold in the five-parish Baton Rouge ozone nonattainment area. This Rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this Rule are to comply with the provisions of the 1990 Clean Air Act Amendments.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2104. Crude Oil and Condensate

A. Applicability. This Section applies to any oil and gas production facility (SIC Code 1311), natural gas processing plant (SIC Code 1321), or natural gas transmission facility (SIC Code 4922) that has a potential to emit 25 Tons Per Year (TPY) or more of flash gas to the atmosphere in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; 50 TPY or more of flash gas to the atmosphere in the parish of Calcasieu; or 100 TPY or more of flash gas to the atmosphere in any other parish.

B. - C.1. ...

2. For facilities in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 25 TPY by means of a federally enforceable permit revision that permanently restricts production, hours of operation, and/or capacity utilization or other equivalent control and requires the maintenance of records to demonstrate compliance with the permit restrictions.

3. For facilities in the parish of Calcasieu with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 50 TPY by means of a federally enforceable permit revision that permanently restricts production, hours of operation, and/or capacity utilization or other equivalent control and requires the maintenance of records to demonstrate compliance with the permit restrictions.

4. For facilities in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 100 TPY by means of a federally enforceable permit revision that permanently restricts production, hours of operation, and/or capacity utilization or other equivalent control and requires the maintenance of records to demonstrate compliance with the permit restrictions.

D. - D.3. ...

E. Compliance Schedule. For equipment located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, compliance shall be achieved as soon as practicable, but no later than September 1, 1998. For equipment located in the parish of Calcasieu with a potential to emit less than 100 TPY, compliance shall be achieved as soon as practicable, but no later than August 20, 2003. For all other facilities compliance shall be achieved as soon as practicable, but no later than May 1, 1999. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

F. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1497 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1764 (August 2002), LR 30:745 (April 2004).

§2108. Marine Vapor Recovery

A. Applicability. An affected facility is any marine loading operation serving ships and/or barges loading crude oil, gasoline, or volatile organic compounds (VOC) with an uncontrolled emission of 25 tons per year (TPY) or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, or 100 TPY or greater of VOC in any other parish. Emissions from VOC with a true vapor pressure of less than 1.5 psia at the loading temperature of the liquid are exempt from the control requirements of this Section.

B. - D.3. ...

4. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

E. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004).

§2115. Waste Gas Disposal

Any waste gas stream containing volatile organic compounds (VOC) from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or 100 TPY or more of VOC in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOC to a more stringent standard than would be required by this Section.

A. - H.1. ...

a. it can be demonstrated that the waste gas stream is not a part of a facility that emits, or has the potential to emit, 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; 50 TPY or more of VOC in the parishes of Calcasieu

and Pointe Coupee; or 100 TPY or more of VOC in any other parish;

H.1.b. - I.5. ...

J. Compliance. All facilities affected by this Section shall be in compliance as soon as practicable but in no event later than August 20, 2003. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

J.1. - *M. Waste Gas Stream.* ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:960 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:317 (March 1993), LR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1764 (August 2002), LR 30:745 (April 2004).

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. - D.7. ...

a. the affected portion of the facility will not emit 25 tons per year (TPY) or more of VOC if the facility is located in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge, or 50 TPY or more of VOC if located in any other parish;

D.7.b. - *GRepair and Maintenance Thermoplastic Coating.* ...

H. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004).

Subchapter C. Vapor Degreasers

§2125. Vapor Degreasers

A. - C.2.j. ...

D. Exemptions. Except as required in this Subsection, a vapor degreaser emitting 100 pounds (45 kilograms) or less of volatile organic compounds (VOC) in any consecutive 24-hour period (uncontrolled) is exempt from the provisions of this Section provided the total emissions from all the vapor degreasers at the facility combined are less than 100 tons per year of VOC, uncontrolled. If these two conditions are not met, the provisions of this Section must apply. For the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, the requirements of this Section apply to all solvent metal cleaners, except as follows.

D.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:962 (November 1990), LR 18:1122 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1765 (August 2002), LR 30:746 (April 2004).

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Paragraphs A.1-5 of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

1. - 5. ...

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit, at full production (8760 hours per year basis), a combined weight of VOC of less than 25 TPY in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; less than 50 TPY in the parishes of Calcasieu and Pointe Coupee; or less than 100 TPY in any other parish, calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

C. - D.3. ...

E. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004).

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

A. Applicability

1. The provisions of this Subchapter apply to any vent stream discharging to the atmosphere and originating from a process unit in which a reactor process or distillation operation is located. This Subchapter shall apply to all vents located at facilities that emit, or have the potential to emit, 25 tons per year (TPY) or more of volatile organic compounds (VOC), plantwide, in the affected parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, or 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. A decision tree is provided (Figure 1) to facilitate determination of applicability to this Subchapter on a per vent basis. The total resource effectiveness (TRE) index value may be applied on an individual process vent stream basis for a given process unit. Compliance with this rule shall be attained within a period of two years after promulgation. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision. Any emission source that is subject to this rule and to the Waste Gas Disposal Rule (LAC 33:III.2115) shall comply with this rule only. This rule shall apply only to Standard Industrial Major Code 28.

A.2. - Figure 1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:746 (April 2004).

Subchapter K. Limiting Volatile Organic Compound (VOC) Emissions from Batch Processing

§2149. Limiting VOC Emissions from Batch Processing

A. Applicability

1. The provisions of this Subchapter apply to process vents associated with batch processing operations. This Subchapter shall apply to the stationary sources that emit, or have the potential to emit, 25 tons per year (TPY) or more of VOC in the affected parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, or 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. The scope of affected industries is limited to those industries in the following standard industrial classification (SIC) codes: 2821, 2833, 2834, 2861, 2865, 2869, 2879. Compliance with this rule shall be attained within a period of two years after promulgation. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision. Any emission source that is subject to this rule and to the Waste Gas Disposal Rule (LA C 33:III.2115) shall comply with this rule only.

A.2. - G.2.c.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:387 (April 1995), amended LR 22:1212 (December 1996), LR 23:1507 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:747 (April 2004).

Subchapter L. Limiting Volatile Organic Compound (VOC) Emissions from Cleanup Solvent Processing

§2151. Limiting VOC Emissions from Cleanup Solvent Processing

A. Applicability. The provisions of this Subchapter apply to stationary sources that emit, or have the potential to emit, 25 TPY or more of VOC and conduct one or more of the affected cleaning operations in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge, or 50 TPY or more of VOC and conduct one or more of the affected cleaning operations in the parish of Calcasieu or Pointe Coupee. Once a source is subject to this Subchapter, it shall be so ad infinitum. Affected cleaning operations are ones that use solvents in the following operations:

A.1. - E. ...

F. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:391 (April 1995), amended LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 30:747 (April 2004).

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions From Industrial Wastewater

§2153. Limiting VOC Emissions From Industrial Wastewater

A. Definitions. Unless specifically defined in LAC 33:III.111, the terms in this Chapter shall have the meanings normally used in the field of air pollution control. Additionally the following meanings apply, unless the context clearly indicates otherwise.

Affected Source Category? any facilities of the following source categories located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge and having the potential to emit 25 TPY or more of VOC, or located in the parishes of Calcasieu and Pointe Coupee and having the potential to emit 50 TPY or more of VOC:

a. - d. ...

B. - H.5. ...

I. Parishes and Compliance Schedules. For the affected facilities in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 1996. If an additional affected VOC wastewater stream

is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup or by November 15, 1998, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority*, compliance shall be achieved as expeditiously as practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this Section as expeditiously as practicable, but in no event later than three years after the process change. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from the promulgation of the regulation revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#056

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Control of Emissions of Nitrogen Oxides (NO_x) (LAC 33:III.2201)(AQ234)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2201 (Log #AQ234).

The revision provisions reasonably available control technology (RACT) rules for sources of nitrogen oxides (NO_x) emissions in the five-parish Baton Rouge ozone nonattainment area that are subject to the new lower major stationary source threshold of 25 tons per year. The revision also includes Rule clarifications. On April 24, 2003, the Environmental Protection Agency reclassified or "bumped up" by operation of law the Baton Rouge ozone nonattainment area from a classification of "serious" to "severe", effective June 23, 2003 (68 FR 20077). The five-parish Baton Rouge ozone nonattainment area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Under Section 182(i) of the 1990 Clean Air Act Amendments (CAAA), serious ozone nonattainment areas reclassified to severe are required to submit State Implementation Plan revisions addressing the severe area requirements for the one-hour ozone National Ambient Air Quality Standard. Under Section 182(d) of the

1990 CAAA, severe area plans must include requirements for RACT rules for sources of NO_x emissions of 25 tons per year, which is the new lower major source threshold in the five-parish Baton Rouge ozone nonattainment area. This Rule is also a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale of this Rule are to comply with the provisions of the 1990 Clean Air Act Amendments.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge

Nonattainment Area and the Region of Influence

A. - A.3. ...

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

* * *

Affected Facility? any facility within the Baton Rouge Nonattainment Area with one or more affected point sources that collectively emit or have the potential to emit 25 tons or more per year of NO_x, unless exempted in Subsection C of this Section, or any facility within the Region of Influence with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO_x, unless exempted in Subsection C of this Section.

* * *

Averaging Capacity? the average actual heat input rate in million British thermal units per hour (MMBtu/hour) at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001 (e.g., the total heat input for the period divided by the actual hours of operation for the same period). Another period may be used to calculate the averaging capacity if approved by the department. For units with permit revisions that legally curtailed capacity or that were permanently shut down after 1997, the averaging capacity is the average actual heat input during the last two ozone seasons of operation before the curtailment or shutdown.

* * *

Combined Cycle? a combustion equipment configuration that generates electrical or mechanical power with a stationary gas or liquid-fired turbine and/or a stationary internal combustion engine and that recovers heat from the discharge within equipment to heat water or generate steam.

* * *

Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace? a boiler or process heater/furnace in the Baton Rouge Nonattainment Area with maximum rated capacity greater than or equal to 40 MMBtu/hour and ozone

season heat input less than or equal to 0.46×10^{11} Btu, or in the Region of Influence with maximum rated capacity greater than or equal to 80 MMBtu/hour and ozone season heat input less than or equal to 0.92×10^{11} Btu.

* * *

Nitrogen Oxides (NO_x)? the sum of the nitric oxide and nitrogen dioxide in a stream measured in accordance with Subsection G of this Section.

* * *

C. ...

1. boilers and process heater/furnaces with a maximum rated capacity of less than 40 MMBtu/hour in the Baton Rouge Nonattainment Area or less than 80 MMBtu/hour in the Region of Influence;

2. stationary gas turbines with a megawatt rating based on heat input of less than 5 MW in the Baton Rouge Nonattainment Area or less than 10 MW in the Region of Influence;

3. stationary internal combustion engines as follows:

a. rich-burn engines with a rating of less than 150 horsepower (Hp) in the Baton Rouge Nonattainment Area or less than 300 Hp in the Region of Influence; and

b. lean-burn engines with a rating of less than 150 Hp in the Baton Rouge Nonattainment Area or less than 1500 Hp in the Region of Influence;

4. - 7. ...

8. any point source during start-up and shutdown as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR Section 60.2 (This exemption does not apply to units that are shut down intentionally on a routine basis, more than once per month.);

9. - 20. ...

D. Emission Factors

1. The following tables list NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 40 to <80 MMBtu/Hour	0.50 pound/MMBtu
	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Process Heater/Furnaces:		
Ammonia Reformers	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 40 to <80 MMBtu/Hour	0.18 pound/MMBtu
	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 5 to <10 MW	0.37 pound/MMBtu
	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 5 to <10 MW	0.27 pound/MMBtu
	>= 10 MW	0.20 pound/MMBtu
All Others	>= 5 to <10 MW	0.24 pound/MMBtu ^b
	>= 10 MW	0.16 pound/MMBtu ^c
Stationary Internal Combustion Engines:		
Lean-burn	>= 150 to <320 Hp	10 g/Hp-hour
	>= 320 Hp	4 g/Hp-hour
Rich-burn	>= 150 to <300 Hp	2 g/Hp-hour
	>= 300 Hp	2 g/Hp-hour

^a based on the higher heating value of the fuel.

^b equivalent to 65 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

^c equivalent to 43 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

Table D-1B. Emission Factors for Sources in the Region of Influence		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 10 MW	0.30 pound/MMBtu

Table D-1B. Emission Factors for Sources in the Region of Influence		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Peaking Service, Gas-fired	>= 10 MW	0.20 pound/MMBtu
All Others	>= 10 MW	0.16 pound/MMBtu ^b
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4 g/Hp-hour
Rich-burn	>= 300 Hp	2 g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 43 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

2. - 3. ...

4. For all other affected point sources, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pounds NO_x per MMBtu or grams NO_x per Hp-hour), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Paragraph D.3 of this Section, provided that a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

D.5. - F.1. ...

a. An owner or operator may obtain approval to install and operate NO_x control equipment that does not result in ammonia emissions above the minimum emission rate (MER) in LAC 33:III.Chapter 51 by submitting documentation in accordance with LAC 33:III.511. This documentation shall include an estimate of any carbon monoxide (CO), sulfur dioxide (SO₂), particulate matter (PM₁₀), and/or volatile organic compound (VOC) emission increases associated with the NO_x control technology. If approved, the administrative authority shall grant an authorization to construct and operate in accordance with LAC 33:III.501.C.3. Any appropriate permit application reflecting the emission reduction shall be submitted to the department and deemed administratively complete no later than 180 days after commencement of operation and in accordance with the procedures of LAC 33:III.Chapter 5.

1.b. - 4. ...

5. Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Considerations. A significant net emissions increase in NO_x, CO, SO₂, PM₁₀, and/or VOC in accordance with LAC 33:III.504 or 509, that is a direct result of, and incidental to, the installation of NO_x control equipment or implementation of a NO_x control technique required to comply with the provisions of this Chapter shall be exempt from the requirements of LAC 33:III.509 and/or 504, as appropriate, provided the following conditions are met:

a. - b.ii. ...

c. notwithstanding the requirements of Table 1 of LAC 33:III.504, a significant net increase of VOC emissions at an affected facility located in the Baton Rouge Nonattainment Area shall be offset at a ratio of at least 1:1. Offsets shall be surplus, permanent, quantifiable, and

federally enforceable and calculated in accordance with LAC 33:III.Chapter 6; and

F.5.d. - G.1. ...

2. Emissions testing is required for all point sources that are subject to the emission limitations of Subsection D of this Section or used in one of the alternative plans of Subsection E of this Section. Test results must demonstrate that actual NO_x emissions are in compliance with the appropriate limits of this Chapter. As applicable, CO, SO₂, PM₁₀, and VOC shall also be measured if modifications, done to comply with this Chapter, could cause an increase in emissions of any of these compounds. Performance testing of these point sources shall be performed in accordance with the schedule specified in Subsection J of this Section.

G.3. - H. ...

1. The owner or operator of boilers that are subject to this Chapter shall demonstrate continuous compliance as follows:

a. - b.ii. ...

iii. install, calibrate, maintain, and operate a NO_x CEMS to demonstrate continuous compliance with the NO_x emission factors of Subsection D or E of this Section, as applicable. The CEMS shall meet all of the requirements of 40 CFR Part 60.13 and performance specification 2 of 40 CFR 60, Appendix B, or the requirements of 40 CFR Part 75 for units regulated under the Acid Rain Program; and

iv. - vi. ...

2. The owner or operator of process heater/furnaces that are subject to this Chapter shall demonstrate continuous compliance as follows:

a. - b.vi. ...

3. The owner or operator of stationary gas turbines that are subject to this Chapter shall demonstrate continuous compliance as follows:

H.3.a. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:747 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#054

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference? 2003
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(OS053*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #OS053*).

This Rule is identical to federal regulations found in 10 CFR 71, Appendix A, January 1, 2003 and 40 CFR Parts 117.3, 136, 266, Appendices IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2003, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding regulations in 10 CFR 71, Appendix A, January 1, 2003 and 40 CFR Parts 117.3, 136, 266, Appendices I-IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2003. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being promulgated to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this Rule are to mirror the federal regulations in order to maintain equivalency.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3, July 1, 2003, Table 117.3? Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4, July 1, 2003:

A.2.a. - B.Note @. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—

Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2003, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2003, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2003, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and 3099.Appendix E, respectively.

Appendix E. Risk Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2003, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2003, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2003, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2003, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2003, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2003, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004).

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2003 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:752 (April 2004).

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2003, in its entirety, and amendments to Part 136 in 68 FR 43271-43283, July 21, 2003, and 68 FR 54934, September 19, 2003, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004).

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2003, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May

2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004).

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A, January 1, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#025

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Nonattainment New Source Review Procedures (LAC 33:III.504)(AQ235)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.504 (Log #AQ235).

The purpose of the Rule change is to clarify the internal offset ratio that facilities must meet in serious and severe ozone nonattainment areas. The Baton Rouge Nonattainment Area has been reclassified from serious to severe as a result of failure to reach ozone attainment levels as mandated by the Clean Air Act. This action has been mandated by the US EPA. The basis and rationale for this Rule are to comply with the provisions of the Clean Air Act Amendments.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - A.5. ...

6. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after December 20, 2001 and prior to June 23, 2003, the provisions of this Section governing serious ozone nonattainment areas shall apply to VOC and NO_x increases. For applications deemed administratively complete in accordance with LAC 33:III.519.A on or after June 23, 2003, the provisions of this Section governing severe ozone nonattainment areas shall apply to VOC and NO_x increases.

B - D.2. ...

3. Notwithstanding Paragraph D.2 of this Section, in the case of any major stationary source located in an area classified as serious or severe, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC or NO_x, as specified in Paragraph F.1 of this Section, from other operations, units, or activities within the source at an internal offset ratio of at least 1.40 to 1 (if reviewed under requirements for serious areas) or 1.50 to 1 (if reviewed under requirements for severe areas), then the requirements for LAER shall not apply.

D.4. - Table 1."PM₁₀". ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004).

James H. Brent, Ph.D.
Assistant Secretary

0404#055

RULE

Department of Economic Development Office of Business Development

Small and Emerging Business Development Program (LAC 19:II.Chapters 1-13)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, has adopted the following amendments to the Rules of the Small and Emerging Business Development Program, in order to amend LAC 19:II.Chapters 1, 3, 5, 7, 9, 11, and 13. The Department of Economic Development has found a need to open the program to "legal residents," as well as "citizens;" to provide additional definitions; to allow the director's "designee" to act in the absence of the director; to achieve flexibility regarding the Louisiana Contractors Accreditation Institute (LCAI) bonding program when no state funding is available for such training; to permit the limitation of the number of bond guarantees outstanding at a given time; and to correctly reflect the name of the office adopting the Rules.

Title 19

CORPORATIONS AND BUSINESS

Part II. Small and Emerging Business Development Program

Chapter 1. General Provisions

§101. Statement of Policy

A. In accordance with the provisions of R.S. 51:941-945 and the provisions of the Administrative Procedure Act, R.S. 49:950-970 as amended, the Department of Economic Development's Small and Emerging Business Development Program administers these regulations which are intended to prescribe the procedures for qualifying and certifying small and emerging businesses; to provide for bonding and other

financial assistance; to provide for technical and managerial assistance; to provide for a business mentor-protégé program; to recognize achievements for small and emerging businesses; and to facilitate access to state agency procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:49 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004).

§103. Purpose

A. The purpose and intent of this Chapter is to provide the maximum opportunity for small and emerging businesses to become competitive in a non-preferential modern economy. This purpose shall be accomplished by providing a program of assistance and promotion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004).

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

Assistant Secretary? the *assistant secretary* of the Department of Economic Development.

Certification? the determination that a business qualifies for designation as a small and emerging business.

Designee? the person designated by the *director* to act in his absence.

Director? the director of the Small and Emerging Business Development Program designated by the *secretary* of the Department of Economic Development.

Firm? a business that has been certified as small and emerging.

Full-Time? working in the firm at least 35 hours per week.

Program? the Small and Emerging Business Development Program in the Department of Economic Development.

RFP? request for proposal.

Secretary? the *secretary* of the Department of Economic Development.

Small and Emerging Business (SEB)? a small business organized for profit and performing a commercially useful function which is at least 60 percent owned and controlled by one or more *small and emerging business persons* and which has its principal place of business in Louisiana. A nonprofit organization is not a *small and emerging business* for purposes of this Chapter.

Small and Emerging Business Person? a citizen or legal resident of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

Undersecretary? the *undersecretary* of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:753 (April 2004).

§107. Eligibility Requirements for Certification

A. An SEB is a firm owned and controlled by one or more small and emerging business person(s). Eligibility requirements fall into two categories, one applies to the individual owners and the other to the applicant's firm. In order to continue participation in the program, a firm and its individual owners must continue to meet all eligibility requirements.

B. Small and Emerging Business Person. For purposes of the program, a person who meets all of the criteria in this Section shall be defined as a small and emerging business person.

1. Citizenship. The person is a citizen or legal resident of the United States.

2. Louisiana Residency. The person has resided in Louisiana for at least one year.

3. Net Worth. The person's net worth may not exceed \$200,000. The market value of the individual owner's personal residence, 401K, IRA, and other legal retirement funds will be excluded from the net worth calculation.

C. Small and Emerging Business

1. Ownership and Control. At least 60 percent of the company must be owned and controlled by one or more small and emerging business persons.

2. Principal Place of Business. The firm's principal place of business must be Louisiana.

3. Lawful Function. The company has been organized for profit to perform a lawful, commercially useful function.

4. Business Net Worth. The business' net worth at the time of application may not exceed \$750,000.

5. Full Time. Managing owners who claim small and emerging business person status must be full-time employees of the applicant firm.

6. Job Creation. An applicant firm anticipates creating new full-time jobs.

D. Requirement for Certification. An application containing an affidavit signed, dated, and notarized attesting to all of the aforesaid eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:542 (April 2003), LR 30:754 (April 2004).

§109. Control and Management

A. Description. An applicant firm's management and daily business operations must be controlled by an owner(s) of the applicant firm who has/have been determined to be a small and emerging business person. In order for a small and emerging business person to be found to control the firm,

that individual must have managerial or technical experience and competency directly related to the primary industry in which the applicant firm is seeking program certification.

1. The small and emerging business person(s) upon whom eligibility is based shall control the board of directors of the firm, either in actual numbers of voting directors or through weighted voting. In the case of a two-person board of directors where one individual on the board is a small and emerging business person and one is not, the formers vote must be weighted by share ownership, worth more than one vote to achieve a minimum of 60 percent control, in order for the firm to be eligible for the program. This does not preclude the appointment of nonvoting or honorary directors. All arrangements regarding the structure and voting rights of the board must comply with state law and with the firm's articles of incorporation and/or bylaws.

2. Individuals who are not a small and emerging business person may be involved in the management of an applicant's firm and may be stockholders, partners, officers, and/or directors of such firm. Such individual(s), their spouse(s) or immediate family members who reside in the individual's household may not, however:

a. exercise actual control or have the power to control the applicant or certified firm;

b. be an officer or director, stockholder, or partner of another firm in the same or similar line of business as the applicant or certified firm;

c. receive excessive compensation as directors, officers, or employees from either the applicant or certified firm. Individual compensation from the firm in any form, including dividends, consulting fees, or bonuses, which is paid to a non-disadvantaged owner, his/her spouse or immediate family member residing in the same household will be deemed excessive if it exceeds the compensation received by the small and emerging business person chief executive officer, president, partner, or owner, unless the compensation is for a clearly identifiable skill for which market rates must be paid for the firm to utilize the person's expertise;

d. be former employers of the small and emerging business owner(s) of the applicant or certified firm, unless the program determines that the contemplated relationship between the former employer and the small and emerging business person or applicant firm does not give the former actual control or the potential to control the applicant or certified firm and if such relationship is in the best interest of the certified firm.

B. Non-small and emerging business person control. non-small and emerging business person(s) or entities may not control, or have the power to control, the applicant firm. Examples of activities or arrangements which may disqualify an applicant firm from certification are:

1. a non-small and emerging business person such as an officer or member of the board of directors of the firm, or through stock ownership, has the power to control daily direction of the business affairs of the firm;

2. the non-small and emerging business person or entity provides critical financial or bonding support or licenses to the firm, which directly or indirectly allows the non-small and emerging business person to gain control or direction of the firm;

3. a non-small and emerging business person or entity controls the firm or the individual small and emerging business person(s) through loan arrangements;

4. other contractual relationships exist with non-small and emerging business person or entities, the terms of which would create control over the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:51 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:754 (April 2004).

§111. Responsibility for Applying

A. It is the responsibility of any business wishing to participate in the program to complete the required certification process. Failure to provide complete, true, or accurate data may result in rejection of the application.

B. Certification materials will be distributed by SEBD Program, or its designee, upon written or verbal request. Written requests for certification materials should be directed to the SEBD Program office in Baton Rouge.

C. Certification as a SEB also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a small and emerging business also does not constitute any determination by SEBD Program that the firm is responsible or capable of performing any work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:543 (April 2003), LR 30:755 (April 2004).

§113. Certification Application Procedure

A. Applicant submits an application containing a signed, dated, and notarized affidavit to the SEBD office.

B. The SEBD Program staff reviews the application and if it is found to be incomplete or further information is needed, the SEBD Program staff will contact applicant. If the applicant does not respond within 15 days, the application will be denied.

C. The director, or designee, notifies the applicant in writing of the decision whether or not to grant certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

§115. Duration of Certification

A. The maximum amount of time that a firm may be granted certification by the SEBD Program is seven years or when the firm graduates.

B. Retention of the firm in the program depends upon time, the firm's progress toward attainment of its business goals, willingness or ability to cooperate, and follow through on recommendations of the SEBD Program staff or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

§117. Reports by Certified Small and Emerging Businesses

A. Report Form. On forms identified or prescribed by the SEBD Program, certified businesses shall report at times specified by the SEBD Program their financial position and attainment of the business' performance goals. Failure to do so may result in termination from the program.

B. Verification of Eligibility. The SEBD Program, or its designee, may take any reasonable means at any time to confirm a certified firm's eligibility, such as by letter, telephone, contact with other governmental agencies, persons, companies, suppliers, or by either announced or unannounced site inspection.

C. Notification of Changes. To continue participation, a certified firm shall provide the SEBD Program, or its designee, with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. Evaluation. The SEBD Program or its designee, as necessary, shall evaluate the information to determine progress, areas for further improvement, resources needed by the firm, and eligibility for continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), LR 26:1572 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

§119. Deception Relating to Certification of a Small and Emerging Business

A. Any person found guilty of the crime of deception relating to certification of an SEB as provided in R.S. 51:944 will be discharged from the program and will not be eligible to reapply under the business name involved in the deception or any business with which such individual(s) may be associated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:52 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. Purpose. The SEBD Program will coordinate technical, managerial, and indirect financial assistance through internal and external resources to assist certified small and emerging businesses in becoming competitive in the market place.

B. Developmental Steps

1. The certified SEB owner will be required to participate in, and complete a SEBD Program approved entrepreneurial training program. The small and emerging business owner that demonstrates adequate entrepreneurial skills or compelling reasons for not participating may be granted a waiver by the director or designee.

2. Determination of Additional Assistance. In consultation with the business owner, the SEBD Program's staff or its designee will determine areas in which the business owner needs additional assistance.

3. Referral to Additional Resources. The SEBD Program or its designee will assist the firm obtain technical and/or managerial assistance from other resources, such as small business development centers, procurement centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. Ongoing Evaluation. In conjunction with the small and emerging business firm and appropriate external resources, the SEBD Program or its designee will periodically assess the SEB firm's progress toward attainment of its business goals. The SEBD Program, in conjunction with the SEB firm, will determine the effectiveness of assistance being administered. If assistance is ineffective, the SEBD Program will investigate and take appropriate action.

5. Graduation from the Program. Upon completion of the program's seven year term or attainment of the SEB's programmatic goals, the SEB firm will graduate from the program. Firms that do not make satisfactory progress and/or exceed the net worth prerequisites for certification will be terminated from the SEBD Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:544 (April 2003), LR 30:755 (April 2004).

Chapter 5. Mentor-Protégé Program

§501. General Policy

A. The policy of the state is to implement a mentor/protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. tone setting? intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting;

2. accountability? responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

3. partnering? teaming of small and emerging businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

4. capacity building? enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities;

5. flexibility? promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

6. education? sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

7. monitoring? requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana state government;

8. reporting? informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development; and

9. continuous improvement? approach to improving the performance of the Mentor/Protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004).

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a mentor/protégé program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are mentor/protégé program participants shall be not less than 5 percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004).

§505. Incentives for Protégé Participation

A. Businesses participating as protégés will be eligible for the following program benefits.

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful mentor/protégé partnerships. SEB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:757 (April 2004).

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor firms:

a. must be capable of contracting with the state;

b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and

c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé firms:

a. must be a certified small and emerging business with the state of Louisiana Department of Economic Development;

b. must be eligible for receipt of government and private contracts;

c. must graduate from the program within a period not to exceed 7 years or until the firm reaches the threshold of \$750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protégé Plan

a. A mentor/protégé plan signed by the respective firms shall be submitted to the Department of Economic Development, Program of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The mentor/protégé plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success.

The plan shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted mentor/protégé agreement shall be reviewed by an economic development small business advisor. The small business advisor may recommend to the director of the Program of Small and Emerging Business Development acceptance of the submitted agreement if the agreement is in compliance with the program's mentor/protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB firms provided by the Department of Economic Development, Program of Small and Emerging Businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an SEB firm. The protégé must meet the department's guidelines for SEB certification as a condition of the mentor/protégé plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004).

§509. Measurement of Program Success

A. The overall success of the mentor/protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;

2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and

3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004).

§511. Internal Controls

A. The Program of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating mentor/protégé agreements for goals and objective;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to

determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004).

§513. Non-Performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved mentor/protégé agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement is considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the mentor/protégé agreement will be considered a default of state contract or purchasing agreement.

C. Failure of the protégé to meet the terms of the mentor/protégé agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:758 (April 2004).

§515. Conflict Resolution

A. The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004).

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A. Program Activities? Louisiana Contractors Accreditation Institute (LCAI)

1. Eligibility. All SEB construction contractors who are certified by the Small and Emerging Business Development Program, Department of Economic Development, are eligible to attend the institute. However, other contracting businesses will be invited to attend the

institute but they will not be able to receive bond guarantee assistance until they have been certified by the SEBD Program.

2. Standards and Procedures for Determining Course Content. The staff of Bonding Assistance Program (BAP) will once a year, or as budget permits, consult with the heads of the construction schools in Louisiana approved by the Board of Regents and Department of Education to ensure that current course content adequately prepares the students to run their construction firms in a businesslike manner.

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation.

4. Accreditation without Institute Attendance. An SEB firm may request to be accredited without attendance. The staff of the BAP will conduct a review of the firm. If the contractor can present evidence he conducts business within standards set by best practices, an accreditation may be issued to the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004).

§903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified small and emerging construction businesses that have been accredited by the LCAI and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project. LCAI accreditation is required when funding is available to support accreditation. LCAI accreditation will ONLY be waived for contracts that occur during the specific time periods when funding is not available to support accreditation. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. Application Process

1. A small business bonding program applicant requesting a bond guaranty is first required to contact a surety company interested in insuring such a bond contingent on SEBD approval. The aforesaid surety will contact SEBD to discern eligibility requirements and submit a formal application on behalf of the business concern.

2. Application for surety bond guarantee assistance including contractor or business underwriting data as prescribed by surety companies shall be submitted by the contractor or its agent to the surety company.

3. Manager of BAP or designee will:

a. determine and document that business is eligible to participate in program;

b. secure proof that project has been awarded to contractor or business, in the case of performance and payment bonds;

c. determine worthiness of the project based on advice and input from surety company;

d. make recommendations to the BRAS Director as required.

C. Surety Companies

1. Criteria for Eligibility and Continuation in the Program. A surety company must have a certificate of authority from, and its rates approved by, the Department of Insurance, and appear in the most current edition of the *U.S. Treasury Circular 570*.

a. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/letters of credit (LC) to a participating surety where the administration finds any of the following:

- i. fraud or misrepresentation in any of the sureties business dealings, BAP-related or not;
- ii. imprudent underwriting standards;
- iii. excessive losses (as compared to other participating sureties);
- iv. failure of a surety to consent to BAP audit;
- v. evidence of discriminatory practices; and
- vi. consideration of other relevant factors.

b. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/LC to a participating surety where the Department of Economic Development finds that the surety has failed to adhere to prudent underwriting standards or other practices relative to those of other sureties participating in the BAP. Any surety that has been denied participation in the program may file an appeal, in writing, delivered by certified mail to the Secretary of the Department of Economic Development, or a designee, who will review the adverse action and will render the final decision for the department. Appeals must be received no later than 30 days from the issuance of the secretary's, or designee's, decision.

2. Subsuretyship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will recommend a guarantee only to one surety. This does not mean that surety agreements cannot be entered. In a default situation, BAP will recommend to indemnify only the lead or primary surety, which will have an indemnification agreement with its re-insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004).

§907. Management Construction/Risk Management Company

A. Surety may require contractor to engage a management construction/risk management company to do, at a minimum, an independent take off and review of all low bid projects and advise BAP of their findings, this determination shall be made based on the surety's standard underwriting procedures. Surety may also require contractor to engage a management construction/risk management company to provide the following services:

1. review of the initial bond request for compatibility of the contractor with the scope of work as outlined in the solicitation;
2. job cost breakdown and bid preparation assistance;

3. monitor all projects once awarded. This will include a full (critical path) reporting throughout the life of the contract;

4. funds receipt and disbursement through a job-specific account on each project. This will include compliance with all lien waivers, releases and vendor payment verification;

5. make itself immediately available for project completion on any defaults at no additional fee to the project cost.

B. Management construction/risk management company engaged by contractor shall be pre-approved by BAP and surety. BAP shall not receive any portion of any fees paid to management construction/risk management company by contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:759 (April 2004).

§909. Underwriting a BAP Guaranteed Bond

A. In underwriting a BAP guaranteed bond, the surety is required to adhere to the surety industry's general principles and practices used in evaluating the credit and capacity; and is also required to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

B. Once an application for a bond guarantee/LC is received from a contractor, a review will be conducted in order to determine whether the small and emerging business is eligible for BAP's surety bond guarantee assistance. This review will focus on the presence of a requirement for surety bonds and other statutory requirements.

1. Bonds

a. There must be a specific contract amount in dollars or obligee estimate of the contract amount, in writing, on other than firm fixed price contracts.

b. There must be nothing in the contract or the proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.

c. BAP, having guaranteed the bid bond, may refuse to recommend guarantee of the required payment and performance bonds when the actual contract price exceeds the original bid and the next higher bid amount. In such an instance, the surety would either issue the payment and performance bond without BAP's guarantee, or suffer default in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

2. Types of Bond Guarantees. BAP guarantees will be limited to certain bid, performance, and payment bonds issued in connection with a contract. Bid, performance, and payment bonds listed in the contract bonds section, *Rate Manual of Fidelity, Forgery and Surety Bonds*, published by the Surety Association of America, will be eligible for a BAP guarantee. In addition, the BAP guarantee may be expressly extended, in writing, to an ancillary bond incidental to the contract and essential to its performance.

3. Ineligible Bond Situations and Exceptions

a. If the contracted work is already underway, no guarantee will be issued unless the director or a designee consents, in writing, to an exception.

b. While it should not be a common occurrence, and is in fact to be discouraged, applications for surety bonds may occasionally be submitted for consideration after a job is in process. In such cases, the surety must submit, as part of the application, the following additional information:

- i. evidence from the contractor that the surety bond requirement was contained in the original job contract;
- ii. adequate documentation as to why a surety bond was not previously secured and is now being required;
- iii. certification by contractor: list of all suppliers indicating that they are paid up to date, attaching a waiver of lien from each; that all labor costs are current; that all subcontractors are paid to their current position of work and a waiver of lien from each;
- iv. certification by obligee that the job has been satisfactorily completed to present status; and
- v. certification from the architect or engineer that the job is in compliance with plans and specifications; and is satisfactory to the present.

c. There are prepared forms published by the American Institute of Architects (AIA), which may be used for the purposes listed above.

C. The surety must satisfy to BAP that there is reasonable expectation that the small and emerging business will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the small and emerging business' experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:548 (April 2003), LR 30:759 (April 2004).

§911. Guarantee

A. Amount of Guarantee. Providing collateral in the form of an irrevocable letter of credit to the surety may be posted on an individual project basis, for one or more projects at any one time, at the discretion of the Department of Economic Development.

B. Surety Bond Guarantee Agreement

1. Terms and Conditions

a. The *guarantee agreement* is made exclusively for the benefit of BAP and the surety; it does not confer any rights or benefits on any other party including any right of action against BAP by any person claiming under the bond. When problems occur on a contract substantive enough to involve the surety, the surety is authorized to take actions it deems necessary. Regardless of the extent or outcome of surety's involvement, the surety's services, including legal fees and other expenses, will be chargeable to the contractor unless otherwise settled.

b. Any agreement by BAP to guarantee a surety bond issued by a surety company shall contain the following terms and conditions:

i. the surety represents that the bond or bonds being issued are appropriate to the contract requiring them;

ii. the surety represents that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety for the type of bond or bonds involved;

iii. the surety affirms that without the BAP guarantee to surety, it will not issue the bond or bonds to the principal;

iv. the surety shall take all steps necessary to mitigate any loss resulting from principal's default;

v. the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters;

vi. the surety shall not join BAP as a third party in any lawsuit to which surety is a party unless BAP has denied liability in writing or BAP has consented to such joinder.

c. When contractor successfully completes bonded job a status inquiry report is signed by appropriate parties and is forwarded to surety's collateral department. Surety shall release standby letter of credit within 90 days of recordation of acceptance date shown on status inquiry report.

d. Variances. The terms and conditions of BAP's guarantee commitment or actual bond guarantee may vary from surety to surety and contract to contract depending on BAP's experiences with a particular surety and other relevant factors. In determining whether BAP's experience with a surety warrants terms and conditions which may be at variance with terms and conditions applicable to another surety, BAP will consider, among other things, the adequacy of the surety's underwriting; the adequacy of the surety's substantiation and documentation of its claims practice; the surety's loss ratio and its efforts to minimize loss on BAP guaranteed bonds; and other factors. Any surety which deems itself adversely affected by the director's exercise of the foregoing authority may file an appeal with the Secretary of the Department of Economic Development. The secretary will render the final decision.

2. Reinsurance Agreement. In all guarantee situations, BAP agrees to reimburse the participating surety up to the agreed-upon percentage of any and all losses incurred by virtue of default on a particular contract. The participating surety agrees to handle all claims, with recoveries being shared on a pro rata basis with BAP. This includes reinsurance agreements between the surety and any other licensed surety or reinsurance company. In other words, no indemnity agreement can be made to inure solely to the benefit of the surety to recover its exposure on any bond guarantee by BAP without BAP participating in its pro rata share.

3. Default

a. Notice of Default. Surety shall notify BAP if it becomes aware of any circumstances which may cause the contractor to fail to timely complete the project in

accordance with the provisions of the contract. Where BAP receives information from other sources indicating a contractor is in potential violation of his contract, the information is to be relayed to the surety for its information and appropriate action.

b. Default Claims, Indemnity Pursuit, and Settlement

i. The sole authority and responsibility in BAP for handling claims arising from a contractor's default on a surety bond guaranteed by the BAP shall remain with the director and undersecretary relative to BAP's guarantee. The director and undersecretary will process and negotiate all claim matters with surety company representatives.

ii. In those situations where BAP's share is \$500 or less, the surety shall notify the contractor, by letter, of its outstanding debt with no further active pursuit undertaken by the surety for which BAP would be requested to reimburse.

iii. In those situations where BAP's share is over \$500 through \$2,500, the surety shall promptly develop financial background information on the debtor contractor. These findings will determine whether it is economically justified to further pursue indemnity recovery or to close the file.

iv. In those situations where BAP's share is over \$2,500, the surety shall pursue recovery through its normal method, assessing and comparing the estimated cost of recovery efforts with the probable monetary gain from the effort prior to exercising its rights under LC.

v. The surety shall advise BAP of attempts made to contact indemnitor or to attach other assets, and the outcome of these attempts. The surety shall insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety shall notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor shall be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that particular contractor's project. Prior to closing the file, surety shall conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

vii. Under the terms and conditions of the surety bond guarantee agreement, the authority to act upon proposed settlement offers in connection with defaulted surety bonds lies with the surety, not with the BAP. A settlement occurs when a defaulted contractor and its surety agree upon a total amount and/or conditions which will satisfy the contractor's indebtedness to the surety, and which will result in closing the loss file. The surety must pay BAP its pro rata share of such settlement. BAP, immediately upon receipt of same, closes the file.

4. Reinstatement. A contractor's contractual relationship is with the surety company. Therefore, all matters pertaining to reinstatement must be arranged with and through the surety. BAP's contractual relationship is with the surety company only. Because of these relationships, BAP will neither negotiate nor discuss with a contractor amounts owed the surety by the contractor, or settlement thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:432 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:549 (April 2003), LR 30:760 (April 2004).

§913. Audits

A. At all reasonable times, BAP or designee may audit the office of either a participating agency, its attorneys, or the contractor or subcontractor completing the contract, all documents, files, books, records and other material relevant to the surety bond guarantee commitments. Failure of a surety to consent to such an audit will be grounds for BAP to refuse to issue further surety guarantees until such time as the surety consents to such audit. However, when BAP has so refused to issue further guarantees the surety may appeal such action to the Secretary of the Department of Economic Development. All appeals must be in writing and delivered by certified mail within 30 days of receiving the director's, or designee's written issuance of notice that no further guarantees will be issued. Otherwise the director's, or designee's, decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:761 (April 2004).

§915. Ancillary Authority

A. The director, with the approval of the undersecretary and assistant secretary, will have the authority to commit funds and enter into agreements which are consistent with and further the goals of this program. This authority would include, but not be limited to, designating a pool of funds upon which only a particular surety has recourse to, in the event of a contractor default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:761 (April 2004).

Chapter 11. Promotion of Small and Emerging Businesses

§1101. Promotion

A. Directory

1. Compilation. The SEBD Program shall compile a directory of all certified SEBs and make it available to the businesses and governmental agencies.

2. Frequency of Publication. The directory shall be updated at least annually, based upon information provided by certified businesses. The SEBD Program may issue updated directories more frequently.

3. Volume and Distribution. At least one copy of the directory will be made available to each state agency and educational institution, and copies will be provided to the state library. Additional copies may be made available to the public and governmental agencies as SEBD Program's resources permit.

4. Available Information. Public information concerning a small and emerging business may be obtained by contacting the Small and Emerging Business Development Program staff during normal working hours.

B. Other Promotional Means. The SEBD Program will utilize other feasible means of promoting small and emerging businesses, such as, but not limited to, the internet, world wide web, electronic bulletin boards, trade shows, or private sector contacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:550 (April 2003), LR 30:761 (April 2004).

Chapter 13. Complaints and Investigations

§1301. Complaints and Investigation of Ineligibility

A. Right to File Complaint. Any individual, firm, or governmental agency which believes that a certified business does not qualify for certification may file a written, signed complaint with the SEBD Program. The complaint must contain sufficient information for SEBD Program staff to conduct an investigation, including specific identification of the affected business, basis for the charge of ineligibility, and identification, mailing address, and telephone number of the complainant.

B. Right to Due Process. No small and emerging business shall be decertified based upon a complaint, without first having had an opportunity to respond to the allegations; however, failure of the small and emerging business to respond to the SEBD Program's notification within 30 calendar days of mailing from the Program may result in revocation of certification.

C. Investigative Procedure

1. Notification of Allegation. The SEBD Program shall notify the certified business which is subject of the complaint by certified mail, return receipt requested, of the allegation within 15 calendar days of the complaint's receipt.

2. Investigation Conducted. Within available resources, the SEBD Program shall investigate each complaint as promptly as possible. In no event shall the investigation extend beyond 60 calendar days from the date that the complaint was received.

3. Cooperation. The small and emerging business shall cooperate fully with the investigation and make its staff and records available to the SEBD Program, if requested. Insufficient cooperation may be grounds for concluding that the firm has not borne the burden of proving to the satisfaction of the SEBD Program that it is eligible for certification, resulting in revocation of certification.

4. Upon completion of the investigation, the SEBD Program's staff shall make a determination and issue a written decision which either rejects the complaint or revokes the certification within 10 working days. A copy of the written decision shall be sent to the firm that was subject of the complaint, the complainant, and the director of the SEBD Program of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:54

(January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:762 (April 2004).

§1303. Grounds and Procedure for Reconsideration of Denial

A. Right to Petition. A decision by the SEBD Program to deny issuing certification, deny renewal of certification, or to revoke certification will be reconsidered after an applicant business has submitted a written petition for reconsideration to the staff of the SEBD Program.

B. Grounds. Grounds for petitioning the SEBD Program to reconsider a denial or revocation of certification are that the Small and Emerging Business Development Program:

1. did not have all relevant information;
2. misapplied its rules;
3. otherwise made an error in reaching its original decision.

C. Right to Petition for Reconsideration. A petitioning business may appeal SEBD Program's decision to deny issuance of certification, to deny recertification, or to revoke certification. Only a firm which is subject of the denial or revocation has a right to petition for reconsideration.

1. Petition Submitted. The appellant business submits a written petition for reconsideration to the SEBD Program's staff. If the petition has not been received by the SEBD Program within 30 days of the date of the letter announcing the denial or revocation, the SEBD Program's decision becomes administratively final.

2. The petition shall specify grounds upon which a reconsideration is justified and the type of remedy requested. The petition for reconsideration must also clearly identify a contact person, mailing address, telephone number. The petitioning firm may provide any additional information which would be pertinent to the issue.

3. Acknowledgment. Upon receiving a petition for reconsideration, SEBD Program shall acknowledge its receipt by sending certified mail, return receipt requested, to the petitioner within five working days.

4. Reconsideration. The SEBD Program shall consider the petition and review all pertinent information, including additional information provided by the appellant business. The SEBD Program may conduct further investigation as necessary.

5. Notification of Decision. No later than 60 calendar days from receipt of the petition for reconsideration, the SEBD Program shall notify the petitioner by certified mail, return receipt requested, of its decision either to affirm the denial or revocation, with specific reason(s) of the grounds for the decision.

D. Final Decision. A decision to deny, revoke, or suspend certification following consideration of a petition for reconsideration is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:944.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:55 (January 1997), amended by the Department of Economic Development, Office of Business Development, LR 29:551 (April 2003), LR 30:762 (April 2004).

Don J. Hutchinson
Secretary

0404#072

RULE

Board of Elementary and Secondary Education

Bulletin 111? Louisiana School,
District, and State Accountability
(LAC 28:LXXXIII.303, 311, 1701, 2701, 2702, 2703, 2713,
2715, 2717, 2719, 2721, 3905, 4001, 4003, and 4005)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111? The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes more clearly explain and refine existing policy as follows:

- ?? Moves directions that apply to several calculations to the beginning of a section.
- ?? Deletes an unclear example of a calculation.
- ?? Sets a timeline for schools in School Improvement to submit School Improvement Plans.
- ?? Expands the details of the Supplemental Educational Services process.
- ?? Specifies how LEAP Alternate Assessment students are included in NRT calculations.
- ?? Creates required definitions for English language proficiency.

Title 28 EDUCATION

Part LXXXIII. Bulletin 111? Louisiana School, District, and State Accountability

Chapter 3. School Performance Score Component

§303. Calculating the SPS Component

All intermediate results and the final result shall be rounded to the nearest tenth.

A. ...

B. Formula for Calculating an SPS [K-6]

The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
SPS = 67.1			

C. Formula for Calculating an SPS [K-8]

The SPS for a K8 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(71.2 * 60%) + (76.1 * 30%) + (87.7 * 5%) + (90.4 * 5%)] = 74.4			
Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
SPS = 74.4			

D. Formula for Calculating an SPS for 9-12 and Combination Schools

Combination schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade. The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is: $SPS = (.60 * CRT \text{ Adjusted Achievement Index}) + (.30 * NRT \text{ Adjusted Achievement Index}) + (.05 * Dropout \text{ Index}) + (.05 * Attendance \text{ Index})$ The following is an example of how this calculation shall be made: [(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS = 69.0			

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1632 (August 2003), amended LR 30:763 (April 2004).

§311. Calculating the CRT Index [9-12]

A. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas tested and summing those products.

B. Divide the sum by the total number of students eligible to be tested times the number of content area tests to get the raw achievement index for the grade.

C. Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and for all the previous grades (see formulas below). This operation means that the grade 10 CRT index shall be multiplied by the grade 9 and grade 10 non-dropout rates plus 0.07, and the grade 11 CRT index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates plus 0.07. This operation shall yield the adjusted achievement index.

D.1. The formula for calculating the CRT adjusted achievement index for a high school is:

$$CRT \text{ Adjusted Achievement Index (Gr 10)} = Raw \text{ Achievement Index} * (1 - DO \text{ Gr 9} + .07) * (1 - DO \text{ Gr 10} + .07)$$

$$CRT \text{ Adjusted Achievement Index (Gr 11)} = Raw \text{ Achievement Index} * (1 - DO \text{ Gr 9} + .07) * (1 - DO \text{ Gr 10} + .07) * (1 - DO \text{ Gr 11} + .07)$$

2. Scores for students repeating the GEE 21 ELA, math, science, and/or social studies tests, shall not be included in SPS calculations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1633 (August 2003), amended LR 30:763 (April 2004).

Chapter 17. Requirements for Schools in School Improvement (SI)

§1701. School Improvement 1 Requirements

A. A school shall enter SI 1 if:

1. it is not academically unacceptable; and

2. it has met the requirements of the subgroup component;
3. but;
 - a. it has an SPS below 79.9 and did not meet its growth target; or
 - b. it has an SPS of 80.0-99.9 and did not grow at least 0.1 points; or
 - c. beginning in 2004, it has an SPS of 100.0-119.9 and has an SPS decline of more than 2.5 points.

B. A school shall remain in SI 1 if:

1. it is not academically unacceptable;
2. it has met the requirements of the subgroup component;
3. it has not made its growth target; and
4. its new growth target is less than eight points.

NOTE: If the school meets the conditions of A, B, and C, but has a growth target > 8 points, it moves to SI 2.

C. School Improvement 1 Requirements

1. A Revised or New School Improvement Plan. All Louisiana schools were required to have a school improvement plan in place by May of 1998. Within 90 days of identification, those schools placed in School Improvement 1 (SI 1) shall be required to review and either revise or completely rewrite their plan, with the assistance of a district assistance team, according to the guidelines established by the Louisiana Department of Education, and submit it to the Division of School Standards, Accountability, and Assistance.

2. Assurance Pages. Each school in school improvement 1 shall be required to provide assurances that it worked with a District Assistance Team (DAT) to develop its school improvement plan and that the plan has the essential components required in the Louisiana School Improvement Plan Template. Signatures of the DAT team members shall also be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1640 (August 2003), amended LR 30:763 (2004).

Chapter 27. Supplemental Educational Services

§2701. Definition of Supplemental Educational Services

A. Supplemental educational services are defined by the United States Department of Education as "tutoring or extra help provided to students in reading, language arts/English, and math. This extra help can be provided before or after school, on weekends, or in the summer." The No Child Left Behind Act states that these services must be of high quality, research-based, and specifically designed to increase the academic achievement of eligible children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), LR 30:764 (April 2004).

§2702. Supplemental Educational Service Models

A. Louisiana's recommended model for the provision of effective supplemental educational services has three components:

1. Diagnostic assessment, or an appropriate process, to identify student weaknesses and achievement gaps that will be used to design instruction as well as to measure gains in student achievement for the purposes of provider accountability;

2. Targeted remediation/instruction aimed at addressing the individual skill gaps revealed during the assessment and based upon an individual learning plan; and

3. Post assessment to see if student gains occurred and a plan for either re-teaching skills or identifying new skill sets for instruction.

B. Student instruction will be in the areas of reading, English/Language arts, and/or mathematics in order to help students achieve academic proficiency and should be based on Louisiana's academic content standards and the local district's instructional plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), LR 30:764 (April 2004).

§2703. Supplemental Educational Service Providers

A. Providers that meet the criteria specified by the Louisiana State Department of Education shall be included on the state-approved supplemental educational services provider list. The State Department of Education will post the list, beginning January 1, 2003. The provider list will be updated on a periodic basis, at least annually, as new providers are identified and meet the qualifications.

B. To be included on the approved list of supplemental educational service providers, applicants shall have met the following criteria:

1. be able to define a process for assessment that results in an individual instructional plan tied to content standards;
2. have a demonstrated level of effectiveness in increasing student academic achievement;
3. be capable of providing supplemental educational services that are of high-quality, research-based, and consistent with the instructional program of the local educational agency and the state's academic content standards;
4. provide instruction that is secular, neutral, and non-ideological;
5. be financially sound, use qualified staff, and possess the organizational capacity necessary to deliver the contracted services; and
6. meet all applicable federal, state, and local health, safety, and civil rights laws;
7. have a program accessible to students attending Title I schools in school improvement.

C. Two levels of service providers have been approved in Louisiana.

1. Full approval is for those supplemental education service providers who have demonstrated a high level of effectiveness and the ability to provide services immediately.

2. New and emerging program approval is for those supplemental education service providers who met the minimum requirements in each component of the application but lack evidence of successful practice and outcomes. Providers who are approved as a new and emerging program:

- a. can only request to serve a total of up to 200 children during the first year;
- b. would be categorized as a new and emerging provider in district correspondence to parents; and
- c. would be required to participate in specially designed technical assistance modules throughout the year.

D. Both categories of supplemental education service providers must have demonstrated that they have met the minimum requirements in each component of the application as judged by a Reviewers' Panel.

E. All Louisiana applicants will have provisional approval for one year, must be able to demonstrate the capacity for meeting the minimum requirements, and can be removed for cause.

F. Examples of reasons why a provider could be removed from the list within the first year are:

1. the delivery of an SES model that was not as related in the approved application, or
2. the absence of criminal background checks of all employees coming into contact with students, which is a State law.

G. Providers may be nonprofit entities, for-profit entities, and local education agencies, including public and private schools, after-school centers, cooperative educational service agencies, institutions of higher education, and faith-based organizations.

H. Entities that cannot serve as providers include public schools identified for school improvement, restructuring or corrective action; and Local Education Agencies identified for school improvement (although schools within such an LEA that are making adequate yearly progress can be providers).

I. All SES provider applicants must have a "service delivery system" in place at the time of application. In other words, applicants must have a physical location or service infrastructure through which SES services are provided to eligible students.

J. In an effort to make services the most accessible to eligible Title I students, local education agencies are strongly encouraged by the Board of Elementary and Secondary Education to allow SES providers the use of school facilities at no cost to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1644 (August 2003), amended LR 30:764 (April 2004).

§2713. SES Provider Responsibilities

A. Entities that agree to become supplemental services providers must:

1. set specific achievement goals for the student, which must be developed in consultation with the student's parents;
2. provide a description of how the student's progress will be measured and how the student's parents and teachers will be regularly informed of that progress;
3. establish a timetable for improving the student's achievement;
4. agree to terminate services if student progress goals are not met;
5. agree not to disclose to the public the identity of any student eligible for or receiving supplemental educational services without the written permission of the student's parents; and
6. agree that services will be provided consistent with applicable civil rights laws.

B. Providers must also submit to the State Department of Education and the schools of all students served, a final

written report that summarizes the progress of all students provided with supplemental services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004).

§2715. State Department of Education Approval and Monitoring of SES Providers

A. Providers who wish to participate on the Louisiana Department of Education's state-approved SES Provider List must:

1. review and complete the Request for Application process;
2. review this Policies and Procedures document, which provides information about the state process;
3. review the Monitoring Section, which contains the criteria that the department will use to evaluate providers. It also contains information regarding complaint management and the evaluation of providers reported to be under performing or deficient in any way.

B. At least annually, a Reviewer's Panel will review applications received, score the applications and – for applications passing the scoring requirements – make recommendations of SES providers to the State Board of Elementary and Secondary Education.

C. The department reserves the right to approve all or specific subject areas and grades submitted by the provider.

D. The department will notify all applicants as to whether or not they have been approved to participate on the statewide SES Provider List.

E. All required documentation must be completed in order for provider to be added to the list.

F. Upon completion, the department will list the provider in its database of approved providers.

G. If selected for service by parents of eligible students, approved providers may be contacted by schools/districts to provide the approved services at the pricing terms approved at the state level, to the degree that they are within the per-pupil funding cap.

H. Providers wishing to alter the pricing terms to exceed the per-pupil funding cap must request approval from the appropriate State Department of Education staff person with the appropriate justification. The State Department of Education staff will render a decision regarding each request within 15 days.

I. Before providing services through this program, the provider must sign agreements with each student's LEA. Copies of this agreement must be available for inspection when providers are monitored by the department staff.

J. At the conclusion of the evaluation year as determined by the Department of Education, the provider is expected to submit to the Department and all schools of students served, a final written report that summarizes the progress of all students provided with supplemental services. The department will communicate the reporting format to each provider at least annually. This information will be used to help determine if a provider will remain on the state-approved list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:765 (April 2004).

§2717. Appealing State Department of Education SES Decisions

A. If a provider disagrees and wishes to appeal a decision, a letter documenting the provider's concerns must be sent to the department.

B. The appeal letter will be reviewed and a final determination will be issued within 15 days.

C. There will be two types of appeals that can be made:

1. Clarifications. If clarification of an application item is needed, department staff will provide a written response regarding the item to the applicant.

2. Scoring Disputes. In cases where scoring is in dispute, the disputed section will be reviewed and a final determination will be issued by the superintendent regarding the results of the section in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004).

§2719. Remaining an SES Provider

A. The State Department of Education (SDE) is required to monitor the quality and effectiveness of the services offered by approved providers.

B. The SDE is required to withdraw approval from providers that fail, for two consecutive years, to contribute to increasing the academic proficiency of students to whom they provide services, and to remove providers that fail at any time to meet any of the other eligibility requirements or assurances.

C. A violation of any of the provider responsibilities may constitute grounds for immediate removal from the state-approved list.

D. During the first year of approval, a provider will be considered to have "probationary" status and may be removed for cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004).

§2721. Review of Provider Performance

A. The State Department of Education shall conduct site visits of approved providers at scheduled intervals to determine if providers are in compliance with providing services that increase student achievement, are provided professionally, and in a safe and legally compliant atmosphere.

B. Parent/Guardian and student feedback will be solicited and reviewed to assess whether providers are accomplishing the goals and fulfilling the responsibilities in the manner described in the providers' applications and agreement forms signed with the LEAs and parents. The department will seek to confirm that providers are:

1. communicating with parents/guardians regarding their children's progress;
2. utilizing qualified staff;
3. holding scheduled classes/appointments;
4. following applicable safety, health, and civil rights standards;
5. demonstrating improvement in the students' achievement.

C. The department will work with local schools/districts to confirm that providers are:

1. fulfilling requests for services to eligible students unless the provider's capacity is reached;
2. providing students with the agreed upon services;
3. completing all aspects noted in the agreement signed between the provider and the LEA;
4. communicating information to schools pertaining to their students' progress in the program;
5. demonstrating improvement in the students' achievement.

D. The department will work with providers to confirm that they are:

1. Providing students with the agreed upon services.
2. Completing all aspects noted in the agreement signed by the provider and the LEA.
3. Adhering to all agreements and responsibilities noted in all documents submitted as part of the RFA process.

E. Parent, student, and school feedback may necessitate the department to request written clarification from the provider. Should such a request of clarification be made, the provider is required to submit the requested information within 10 business days of the date the department made the request.

F. The LDOE *After School and Summer Information and Service Tracking* (ASSIST) System is designed to automate the tracking and reporting of after school and summer programs. The web-based system tracks students, site activities, site staff, student outcomes, student attendance and total contact hours for each program provider. SES Providers will be required to submit data to the LDOE through this mechanism.

G. If the Department of Education determines that one or more complaints about a provider have validity, the department may choose to commence a review of the provider. The complaints may arise from:

1. a school/school district;
2. a parent;
3. a student;
4. a representative of a governmental entity; or
5. a DOE annual review.

H. The department will acknowledge all reports received and will communicate the resolution to the source of the report. The department will require of any party bringing a complaint to explain and/or provide copies of all documents showing prior good-faith attempts to resolve the issue (except in cases of hazard, endangerment, etc.)

I. The department will, based on the nature of the complaint or deficient performance, first determine if a temporary suspension is appropriate. After review of the complaint, the department will then determine whether the state standards to participate on the List are being upheld. The provider shall be notified if it will continue to participate on the State-Approved List or be prohibited from continuing to provide services.

J. In the event that provider is suspended or terminated from the State-Approved List, the department will notify schools/districts in the provider's previously approved service area(s) of the provider's change in status.

K. Should a parent/guardian, student, or provider bring to the attention of the department an issue of complaint or

deficient performance regarding a school or district in relation to SES implementation, the department will bring the issue to the attention of the appropriate personnel in the school/district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:766 (April 2004).

Chapter 39. Inclusion of Students with Disabilities

§3905. Inclusion of Alternate Assessment Results

A. LAA and LAA-B test scores shall be included in the 2002-2003 Baseline SPS, and LAA test scores shall be included in Growth and Baseline SPS calculations for all subsequent years.

B. LAA scores shall be converted according to the following method.

1. The 4 State-Specified-Skills scores within each subject area shall be averaged and those subject area averages (ELA, math, science, and social studies) shall be converted to scores using the following table.

a. Students enrolled in the Student Information System (SIS) in CRT grades (4, 8 10, 11) shall receive the CRT Level labels and the corresponding Index Points.

b. For students enrolled in NRT grades (3, 5, 6, 7, 9), the 4 subject area averages shall be converted to the 4 corresponding Index Scores, and those Index Scores averaged to create student level NRT indices.

LAA Score	Level	Index Points
0.00-0.49	Unsatisfactory	0
0.50-2.49	Approaching Basic	50
2.50-3.49	Basic	100
3.50-4.49	Mastery	150
4.50-5.00	Advanced	200

2. Students taking LAA who do not meet the alternate assessment participation criteria shall receive a score of zero in SPS component calculations and a score of non-proficient in subgroup component calculations.

3. Students taking LAA-B shall receive a score of zero in the Baseline SPS and a score of non-proficient in subgroup component calculations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

Chapter 40. Definitions Related to English Proficiency

§4001. Proficient in English

A. To be considered English proficient a student who is limited English proficient must score for:

1. Two Years

a. at either the proficient level according to the state's high stakes testing policy on LEAP 21 assessments, and/or

b. at or above the 40th percentile composite score on IOWA, and

2. One Year

a. at the Full English Proficiency Level V on the English Language Development Assessment in listening, speaking, reading, writing, and comprehension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

§4003. Making Progress in Learning English

A. Making progress in learning English will be demonstrated by a student who moves to a higher level of English proficiency as indicated by the annual assessment of English language proficiency using the English Language Development Assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

§4005. English Language Proficiency Descriptors

A. English Language Proficiency Labels are defined as:

1. Level I-Beginning Proficiency indicates that the student who is limited English proficient is:

- beginning to understand short utterances;
- beginning to use gestures and simple words to communicate;
- beginning to understand simple printed material
- beginning to develop communicative writing skills.

2. Level II-Lower Intermediate Proficiency indicates that the student who is limited English can:

- understand simple statements, directions, and questions;
- use appropriate strategies to initiate and respond to simple conversation;
- understand the general message of basic reading passages;
- compose short informative passages on familiar topics.

3. Level III-Upper Intermediate Proficiency indicates that the student who is limited English proficient can:

- Level III-Upper Intermediate Proficiency indicates that the student who is limited English proficient can:
- understand standard speech delivered in most settings;
- communicate orally with some hesitation;
- understand descriptive material within familiar contexts and some complex narratives;
- Write simple texts and short reports.

4. Level IV-Advanced Proficiency indicates that the student who is limited English proficient can:

- identify the main ideas and relevant details of discussions or presentations on a wide range of topics;
- actively engage in most communicative situations familiar or unfamiliar;
- understand the context of most text in academic areas with support;
- write multi-paragraph essays, journal entries, personal/business, and creative texts in an organized fashion with some errors.

5. Level V-Full English Proficiency indicates that the student who is limited English proficient can:

- understand and identify the main ideas and relevant details of extended discussion or presentations on familiar and unfamiliar topics
- Is fluent and accurate in language production
- Use reading strategies the same as their native English-speaking peers to derive meaning from a wide range of both social and academic texts

d. Write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004).

Weegie Peabody
Executive Director

0404#042

RULE

Board of Elementary and Secondary Education

Bulletin 112? Louisiana English Language
Development Standards
(LAC 28:Part LXXXV.Chapters 1-7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted *Bulletin 112? Louisiana English Language Development Standards*, which contains content standards in each of the four domains of language, listening, speaking, reading, and writing, and establishes five levels of English language proficiency within each domain. Implementation of these standards and benchmarks will be used to guide curriculum development for limited English proficient students. The *Louisiana English Language Development Standards* are aligned to the State's *English Language Arts Standards* and linked to the State's *Math, Social Studies, Science, and Foreign Language Standards* as required by Title III of the Elementary and Secondary Education Act, No Child Left Behind of 2001.

Title 28 EDUCATION

Part LXXXV. Louisiana English Language Development Standards

Chapter 1. Standard One

§101. General Provisions

A. Standard One. Students demonstrate competence in listening as a tool for learning and comprehension.

B. Focus. As students who are limited English proficient move through the 5 levels of English listening proficiency from phonemic awareness to understanding short utterances and simple directions to understanding standard speech both in social and academic settings to understanding the main ideas and relevant details of extended discussions or presentations, these students will develop the English listening skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:768 (April 2004).

§103. Listening Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-1-L1? Students demonstrate growth in comprehension of oral language and begin to access the

curriculum in core subject areas (ELA -4).

a. Listening Proficiency Level I. Beginner: Students at this level are beginning to understand short utterances. They occasionally understand isolated words, such as cognates, borrowed words, or high frequency social conventions. The student is able to do the following:

- i. detect non-verbal and verbal cues (L 1.1);
- ii. focus attention selectively (L 1.2);
- iii. demonstrate comprehension through non-verbal responses (L 1.3);
- vi. respond correctly to high frequency social convention (L 1.4);
- v. respond to simple directions or instructions (L 1.5);
- vi. listen to and imitate others use of language (L 1.6);
- vii. comprehend a few words, phrases with basic English grammatical forms (L 1.7).

2. ELD-1-L2? Students comprehend simple statements, directions, questions, and continue to access the curriculum in core subject areas (ELA -4).

a. Listening Proficiency Level II-Lower Intermediate. Students at this level understand simple statements, directions, and questions. They rely on a speaker's use of repetition, gestures, and other non-verbal cues to sustain communication. The student is able to do the following:

- i. begin to discriminate the sounds and intonation patterns of the English language (L2.1);
- ii. understand basic structures, expressions, and vocabulary such as school environment and basic personal information (L 2.2);
- iii. comprehend key words, phrases and/or sentences with basic English grammatical forms (L2.3);
- iv. follow multi-step oral directives to complete task (L 2.4);
- v. interpret speaker's message, purpose, and perspectives (L 2.5);
- vi. assess how language choice reflects the tone of the message (L 2.6).

3. ELD-1-L3? Students comprehend simple narratives and structures in short interactions with peers and adults, and continue to access the curriculum in core subject areas (ELA -5).

a. Proficiency Level III-Upper Intermediate. Students at this level understand standard speech delivered in most settings with some repetition and rephrasing. They understand the main idea(s) and relevant details of extended discussions or presentations. They draw on a wide range of language forms, vocabulary, idioms, and structures. Students at this level are beginning to detect affective undertones, and they understand inferences in spoken language. The student is able to do the following:

- i. demonstrate proficiency of the listening process such as focusing attention, interpreting and responding to topics in everyday situations (L 3.1);
- ii. listen attentively to stories/information and identify main idea, key details and concepts using both verbal and non-verbal cues of the speaker (L 3.2);
- iii. identify a variety of media messages and give some supporting details (L 3.3).

4. ELD-1-L4? Students understand speech in most authentic situations with some repetition and rewording in both social and core academic setting approaching grade level listening comprehension (ELA 6).

a. Listening Proficiency Level IV-Advanced. Students at this level understand most standard speech. They identify main ideas and relevant details of discussions or presentations on a wide range of topics, including unfamiliar ones. Students infer meaning from stress, intonation, pace, and rhythm. The student is able to do the following:

i. listen to proficient, fluent models of oral reading, including selections from classic and contemporary works (L 4.1);

ii. use effective listening to provide appropriate feedback in variety of situations such as conversations, discussions, and informative, persuasive, or artistic presentations (L 4.2);

iii. demonstrate understanding of figurative language and idiomatic expressions by responding to and using such expressions appropriately (L 4.3).

5. ELD-1-L5. Students master comprehension of standard speech at grade level in both social and core academic settings (ELA 7).

a. Listening Proficiency Level V-Full English Proficiency. Students at this level understand and identify the main ideas and relevant details of extended discussions or presentations on a wide range of familiar and unfamiliar topics in a number of modalities. Students apply linguistic skills and knowledge, including vocabulary, idioms, and complex grammatical structures in the learning of academic content. They comprehend subtle and nuance details of meaning. The student is able to do the following:

i. differentiate between the speaker's opinion and verifiable fact (L 5.1);

ii. demonstrate comprehension of and give an appropriate listener response to ideas in a persuasive speech, oral interpretation of literary selections, interviews in a variety of real-life situations, and in educational and scientific presentations (L 5.2);

iii. identify, analyze and imitate a speaker's persuasive techniques such as selling, convincing, and using propaganda (L 5.3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:768 (April 2004).

Chapter 3. Standard Two

§301. General Provisions

A. Standard Two. Students demonstrate competence in speaking for effective communication in social and academic contexts.

B. Focus. As students who are limited English proficient move through the 5 levels of English speaking proficiency from using simple words or phrases to initiating and responding to simple conversation to producing complex sentence structures to producing a high degree of fluency and accuracy when speaking to producing fluent and accurate language production in both social and academic situations, these students will develop English speaking skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:769 (April 2004).

§303. Speaking Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-2-S1? Students will show growth in oral communication using high frequency words and phrases to begin to access the curriculum in core subject areas (ELA 4).

a. Speaking Proficiency Level I-Beginner. Students at this level use gestures, simple words or phrases when given sufficient context or visual cues to respond to or request information. The student is able to do the following:

i. communicate with gestures and non-verbal modalities (S 1.1);

ii. communicate using common social greetings and simple repetitive phrases (S 2.2);

iii. answer simple questions with one and two-word responses (S 2.3);

iv. communicate basic needs, wants, and feelings (S 2.4);

v. generate a few words, phrases with basic English grammatical form and phonemic accuracy (S 2.5).

2. ELD-2-S2? Students use appropriate strategies to initiate and respond to simple statements and questions to continue to access the curriculum in core subject areas (ELA 4).

a. Speaking Proficiency Level II-Lower Intermediate. Students at this level use appropriate strategies to initiate and respond to simple conversation with hesitation, relying on known vocabulary, familiar structures and utterances and may have to repeat themselves to be understood. The student is able to do the following:

i. name people, places, objects, events and basic concepts such as days of the week, food, occupations and time (S 2.1);

ii. restate oral directions or instructions (S 2.2);

iii. ask and give information such as directions, address, name, and age (S 2.3);

iv. ask and answer questions using simple phrases or sentences (S 2.4);

v. respond to factual questions about texts read aloud (S 2.5);

vi. narrate basic sequence of events (S 2.6).

3. ELD-2-S3? Students initiate and sustain a simple conversation in social and core academic settings (ELA 4,7).

a. Speaking Proficiency Level III-Upper Intermediate. Students at this level communicate orally, often with hesitation, when using low-frequency vocabulary. They begin to produce complex sentence structures, use verb tenses correctly, and discuss academic topics. The student is able to do the following:

i. ask and answer questions to gather and provide information in English (S 3.1);

ii. converse on simple topics begin to use most conventions of the oral English language including intonation, syntax, and grammar. (S 3.2);

iii. narrate simple sequence of events (S 3.3);

iv. retell and paraphrase familiar stories with simple sentences (S 3.4);

- v. ask and answer instructional questions about simple written texts with simple words and phrases (S 3.5);
- vi. give directions/procedures (S 3.6);
- vii. prepare and deliver short oral presentations (S 3.7).

4. ELD-2-S4? Students approaching grade level communication with confidence in most situations with support in academic areas (ELA 4.7).

a. Speaking Proficiency Level IV-Advanced. Students at this level engage in most communicative situations with some errors, demonstrating competence in oral language. They have a high degree of fluency and accuracy when speaking in social settings, although they may encounter difficulty in academic language production. The student is able to do the following:

- i. recognize appropriate ways of speaking that varies based on purpose, audience, and subject matter (S 4.1);
- ii. respond to factual questions about texts read aloud (S 4.2);
- iii. communicate effectively in conversations and group discussions while problem solving and planning (S 4.3);
- iv. use the conventions of oral language effectively including intonation, syntax, and grammar (S 4.6);
- v. narrate complex sequence of events (S 4.5);
- vi. use a variety of idiomatic expressions and figurative language appropriately (S 4.6);
- vii. persuade, argue or reason to support spoken ideas with evidence, elaborations, and examples (S 4.7).

5. ELD-2-S5? Students on grade level engage in social and academic communication with mastery of complex language structures in varied situations (ELA 4.7).

a. Speaking Proficiency Level V-Full English Proficiency. Students at this level are fluent and accurate in language production with some hesitation regarding technical content area vocabulary. The student is able to do the following:

- i. adapt spoken language such as word choice, diction, and usage to the audience, purpose, and occasion (S 5.1);
- ii. use effective, rate, volume, pitch, and tone for the audience and setting (S 5.2);
- iii. actively participate and initiate more extended social conversations or discussions with peers and adults on familiar or unfamiliar topics by making relevant contributions, asking and answering questions, restating and soliciting information (S 5.3);
- iv. demonstrate effective communication skills that reflect such demands as interviewing, reporting, requesting, and providing information (S 5.4);
- v. prepare and deliver extended oral presentations that follow a process of organization using a variety of sources for a research project (S 5.5);
- vi. explain abstract tasks and/or concepts with appropriate sequencing taking into account the listener's perspective (S 5.6);
- vii. negotiate with confidence using complex language structures for expression of personal view of abstract ideas (S 5.7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:769 (April 2004).

Chapter 5. Standard Three

§501. General Provisions

A. Standard Three. Students read, comprehend, analyze, and respond to a range of reading materials using various strategies for different purposes.

B. Focus. Students who are limited English proficient enter school with a wide range of literacy skills and abilities in their native language. As students move through the 5 levels of English reading proficiency from letter recognition to simple language structures and syntax to complex narratives to comprehending the context of most text to using the same reading strategies to derive meaning from a wide range of social and academic texts, these students will develop the English reading skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:770 (April 2004).

§503. Reading Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-3-R1? Students develop initial print awareness and begin to access the curriculum in core subject areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level I-Beginner. Students at this level understand simple print material. Students identify high-frequency words and symbols when strongly supported by context. The student is able to do the following:

- i. hold print material in the correct position (R 1.1);
- ii. recognize common signs and logos (R 1.2);
- iii. distinguish individual printed letters from words and sentences (R 1.3);
- iv. identify words from left to right and top to bottom on the printed page (R 1.4);
- v. recognize the order of the alphabet and the form of the letters, and Arabic numbers (R.3.5);
- vi. know the difference between capital and lowercase letters (R 1.6);
- vii. recognize phonetic pronunciation of the letters of the alphabet (R 1.7);
- viii. match oral words to printed words or graphics (R. 1.8);
- ix. read simple one syllable and high frequency words when strongly supported by context (R 3.9);
- x. use emerging reading skills to make meaning from print (R 1.10).

2. ELD-3-R2. Students understand simple material form academic or social purposes to continue to access the curriculum in core subject areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level II-Lower Intermediate. Students at this level understand the general message of basic reading passages that contain simple

language structures and syntax. Students begin to use reading strategies to guess the meaning of unfamiliar words through the use of pictures, diagrams, cognates, and context. The student should be able to do the following:

- i. use prior knowledge to interpret pictures (R 2.1);
- ii. use pictures to make predictions about the text (R 2.2);
- iii. recognize sound/symbol relationships (R 2.3);
- iv. read common word families and simple sentences (R 2.4);
- v. read compound words and contractions (R 2.5);
- vi. use cognates for academic or social comprehension (R 2.6);
- vii. recognize basic word order rules in phrases, simple sentences, or simple text (R 2.7).

3. ELD-3-R3? Students understand a more complex narrative and descriptive materials within a familiar context to continue to access the curriculum in core subject areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level III-Upper Intermediate. Students at this level understand descriptive materials within familiar contexts and some complex narratives. The student uses visual and contextual cues to derive meaning from text that contains unfamiliar words and expressions. There may be a disparity between reading fluency and comprehension. The student should be able to do the following:

- i. demonstrate knowledge of taught contractions (R 3.1);
- ii. recognize common abbreviations (R 3.2);
- iii. use capitalization and punctuation to comprehend (R 3.3);
- iv. locate the meanings, pronunciations, and derivations of unfamiliar words using dictionaries, glossaries, and other sources (R. 3.4);
- v. recognize and use knowledge of spelling patterns when reading (R 3.5);
- vi. recognize the format of poetry versus prose (R 3.6);
- vii. identify the main idea (R 3.7).

4. ELD-3-R4? Students, approaching grade level, understand the content of most text with support in academic content areas (ELA 1, 5, 6, 7).

a. Reading Proficiency Level IV-Advanced. Students at this level comprehend the context of most text in the academic areas with some degree of support. They read many literary genres for pleasure and have a high degree of success reading factual but non-technical prose. The student should be able to do the following:

- i. interact independently with a variety of text (R 4.1);
- ii. recognize most common English morphemes in phrases and sentences (R 4.2);
- iii. apply knowledge of word relationships, such as root and affixes to derive meaning from literature and text in content area (R 4.3);
- vi. rely on context clues to determine meaning (R 4.4);
- v. use reference materials including the glossary, dictionary, index, thesaurus, almanac, atlas, and multi-media resources (R 4.5);

vi. distinguish between main idea and supporting details (R 4.6).

5. ELD-3-R5? Students understand a wide range of both social and academic texts available to native English speakers at grade level (ELA 1,5, 6, 7).

a. Reading Proficiency Level V-Full English Proficiency. Students at this level use the same reading strategies as their native English-speaking peers to derive meaning from a wide range of both social and academic texts. The student should be able to do the following:

- i. create artwork or a written response that shows comprehension of a selection (R 5.1);
- ii. comprehend material from a variety of genres (R 5.2);
- iii. draw correlations from literature and links to real life situations (R 5.3);
- iv. name and analyze story plot, setting, and conflict (R 5.4);
- v. analyze, evaluate, and draw conclusions by providing evidence presented in the text (R 5.5);
- vi. organize, evaluate, and condense information for use in a presentation or writing (R 5.6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:770 (April 2004).

Chapter 7. Standard Four

§701. General Provisions

A. Standard Four. Students write proficiently in English for various purposes and audiences.

B. Focus. Students who are limited English proficient are expected to perform on an academic level commensurate with their English-speaking peers. As students move through the five levels of English writing proficiency from letter formation to composing short informative passages to short reports to multi-paragraph essays to writing fluently using language structures and writing conventions, these students will develop the writing skills that will enable them to fully access the general education curriculum and achieve at the same academic levels as their native English speaking-speaking peers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:771 (April 2004).

§703. Writing Benchmarks and Proficiency Levels

A. If cognitively appropriate, in grades K-12 what students who are limited English proficient should know and are able to do includes the following.

1. ELD-4-W1? Students demonstrate growth in communicative writing skills to begin to access the curriculum in core subject areas (ELA 2, 3).

a. Writing Proficiency Level I-Beginner. Students at this level are beginning to develop communicative writing skills including the formation of individual letters and transcription of familiar words or phrases. Instruction for these students will target alphabetic awareness and basic writing techniques relative to phonological and morphological areas. The student should be able to do the following:

- i. draw or copy from a mode (W 1.1);
- ii. print upper and lowercase letters of the alphabet (W 1.2);

- iii. print legibly using left to right, top to bottom directionality (W 1.3);
- iv. write his/her own name and other important words (W 1.4);
- v. print legibly using correct spacing between letters and words and sentences (W 1.5);
- vi. copy words posted and commonly used in the classroom (W 1.6);
- vii. label key parts of common objects (W 1.7);
- viii. capitalize first word of a sentence, proper nouns, and initials (W 1.8).

2. ELD-4-W2? Students compose short informative passages on familiar topics and continue to access the curriculum in core subject areas (ELA 2, 3).

a. Writing Proficiency Level II-Lower Intermediate. Students at this level describe basic personal needs and compose short informative passages on very familiar topics. Students use prior knowledge to build understanding of essential grammatical concepts and constructs such as syntax and semantics. The student should be able to do the following:

- i. arrange words in alphabetical order (W 2.1);
- ii. use phonetic spelling (W 2.2);
- iii. produce several simple sentences on a topic (W 2.3);
- iv. use correct punctuation at the end of a sentence (W 2.4);
- v. write labels, notes, captions for illustrations, possessions, charts, and centers (W 2.5);
- vi. fill out simple forms with personal information with support (W 2.6);
- vii. begin to demonstrate knowledge of paragraph structure (W 2.7).

3. ELD-4-W3? Students write simple texts, correspondence, and short reports using high frequency language and continue to access the curriculum in core subject areas (ELA 2, 3).

a. Writing Proficiency Level III-Upper Intermediate. Students at this level write simple texts, personal/business letters, and short reports using high frequency language. Students recognize and correct obvious grammatical and syntactical errors. Students write various sentence patterns/structures. The student should be able to do the following:

- i. begin to demonstrate conventional spelling (W 3.1);
- ii. identify complete and incomplete sentences in written English (W 3.2);
- iii. use basic grammatical constructions in simple sentences (W 3.3);
- iv. write multiple sentences about a topic (W 3.4);
- v. write with more proficient spelling of inflectional endings, including plurals, past tense, and words that drop the final e when such endings as ing, ed, or able are added, correctly use apostrophes in contractions and possessives. (W 3.5);
- vi. write friendly notes and letters (W 3.6);
- vii. edit writing for punctuation, capitalization and spelling (W 3.7).

4. ELD-4-W4? Students, approaching grade level, write multi-paragraph essays, journal entries, personal and business letters, and creative texts in an organized fashion both in social and core academic subject areas (ELA 2, 3).

a. Writing Proficiency Level IV-Advanced. Students at this level write multi-paragraphs essays, journal entries, personal/business letters, and creative texts in an organized fashion with some errors. Students refine English writing skills leading into more mature, stylistic, and expressive formats. The student should be able to do the following:

- i. use planning strategies before writing (e.g.: process writing, graphic organizers) (W 4.1);
- ii. use resources to find correct spellings, synonyms, and replacement words (W 4.2);
- iii. use correct spelling of frequently used words in writing and words that contain affixes, contractions, compounds, common homophones, and words appropriate to the topic (W 4.3);
- iv. write the accurate spelling of root words, affixes, and inflections (W 4.4);
- v. spell derivatives correctly by applying the spelling of bases and affixes (W 4.5);
- vi. write a three-paragraph essay about a topic (W 4.6);
- vii. edit and revise writing for grammar and content (W 4.7);
- viii. begin writing in a variety of genres (W 4.8).

5. ELD-4-R5? Students, at grade level, produce fluent academic writing using language structures, technical vocabulary, and appropriate writing conventions to access the curriculum in core subject areas (ELA 2, 3, 7).

a. Writing Proficiency Level V-Full English Proficiency. Students at this level write fluently using language structures, technical vocabulary, and appropriate writing conventions with some circumlocutions. Students continue to expand written vocabulary to express themselves in various genres. The student should be able to do the following:

- i. organize and record expository information on pictures, lists, charts, and tables for literature and content area (W 5.1);
- ii. write to inform such as to explain, describe, report, narrate and persuade (W 5.2);
- iii. use figurative language correctly (W 5.3);
- iv. use analogies, quotations and facts to support a thesis (W 5.4);
- v. proofread writing for appropriateness of organization, content, style, and conventions (W 5.5);
- vi. apply rubric criteria to evaluate writing (W 5.6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:771 (April 2004).

Weegie Peabody
Executive Director

0404#043

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School
Administrators? Career and Technical Course Offerings
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The changes of the Career and Technical course offerings will revise current course offerings, bringing them in-line with current industry standards. This action up-dates Career and Technical course offerings. In updating these course offerings our Career and Technical program of studies will be more aligned with national standards.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:773 (April 2004).

* * *

Agriculture Education

2.105.25 Agriculture Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Exploratory Agriscience	7-8	--
Agribusiness	11-12	1/2
Agriculture Education Elective (1/2 Credit)	9-12	1/2
Agriculture Education Elective (1 Credit)	9-12	1
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience IV	12	1
Agriscience III Laboratory	11-12	1
Agriscience IV Laboratory	12	1
Agriscience-Construction	11-12	1/2
Agriscience Elective	9-12	1
Agriscience-Entrepreneurship	11-12	1/2
Agriscience Internship I	11-12	2
Agriscience Internship II	12	2
Agriscience-Leadership Development	11-12	1/2
Agriscience Welding Systems I	11-12	1/2
Agriscience Welding Systems II	11-12	1/2
Animal Systems	11-12	1/2
Aquaculture	11-12	1/2
Biotechnology	11-12	1
Care and Management of Small Animals I	11-12	1/2
Care and Management of Small Animals II	12	1/2
Cooperative Agriscience Education I	11-12	3

Cooperative Agriscience Education II	12	3
Crop Systems	11-12	1/2
Environmental Application	11-12	1/2
Equine Science	11-12	1/2
Food and Fiber	11-12	1/2
Forestry	11-12	1/2
Horticulture I	11-12	1/2
Horticulture II	12	1/2
Precision Agriculture	11-12	1
Small Engines (Applications)	11-12	1/2
Industry Based Certifications		
ABC Carpentry in Agriscience (1 Credit)	10-12	1
ABC Carpentry in Agriscience (2 Credits)	10-12	2
ABC Carpentry in Agriscience (3 Credits)	10-12	3
ABC Electricity in Agriscience (1 Credit)	10-12	1
ABC Electricity in Agriscience (2 Credits)	10-12	2
ABC Electricity in Agriscience (3 Credits)	10-12	3
ABC Pipefitting in Agriscience (1 Credit)	10-12	1
ABC Pipefitting in Agriscience (2 Credits)	10-12	2
ABC Pipefitting in Agriscience (3 Credits)	10-12	3
ABC Welding in Agriscience (1 Credit)	10-12	1
ABC Welding in Agriscience (2 Credits)	10-12	2
ABC Welding in Agriscience (3 Credits)	10-12	3

Agriscience III and IV Laboratory, Agriscience Internship I and II, and Cooperative Agriscience Education I and II are offered only to students who are also enrolled in Agriscience III or Agriscience IV for two consecutive semester courses during the year.

Required prerequisites are outlined in the Agriculture Education section of *Career and Technical Education Course Descriptions & Programs of Study*. All courses shall be taught in sequence. Level I courses are prerequisite to Level II courses. Agriscience I is prerequisite to Animal Systems, Aquaculture, Crop Systems, Equine Science, Food and Fiber, Forestry, and Agriscience-Welding Systems I. Agriscience I and Biology I are prerequisites to Biotechnology. Agriscience I and/or enrolled simultaneously in Biology I are prerequisites to Environmental Application. Agriscience I or Biology I is prerequisite to Horticulture I. Agriscience II is prerequisite to Agriscience-Construction and Precision Agriculture. Agribusiness is prerequisite to Agriscience-Entrepreneurship.

Semester courses are designed to be offered in the place of, or in addition to Agriscience III and/or IV.

Safety must be taught in all courses. Refer to *Bulletin 1674* for safety information.

Business Education

2.105.26 Business Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I (1/2 Credit)	9-12	1/2
Business Education Elective I (1Credit)	9-12	1
Business Education Elective II (1/2 Credit)	9-12	1/2
Business Education Elective II (1 Credit)	9-12	1
Business English	12	1
Business Internship I	11-12	2
Business Internship II	12	2
Business Law	11-12	1/2
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Computer Technology Literacy	9-12	1
Economics	11-12	1
Entrepreneurship	11-12	1

Financial Math	9-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I (1 Credit)	10-12	1
Lodging Management I (2 Credits)	10-12	2
Lodging Management I (3 Credits)	10-12	3
Lodging Management II (1 Credit)	11-12	1
Lodging Management II (2 Credits)	11-12	2
Lodging Management II (3 Credits)	11-12	3
Principles of Business	9-12	1
Web Design	10-12	1/2
Word Processing	11-12	1

Keyboarding and Keyboarding Applications or Introduction to Business Computer Applications shall be a prerequisite to Administrative Support Occupations, Business Computer Applications, Business Communications, Business English, Computer Multimedia Presentations, Telecommunications and Word Processing. Word Processing or Business Computer Applications is prerequisite to Desktop Publishing. Level I courses shall be prerequisite to Level II courses.

Cooperative Office Education shall be limited to seniors. The students shall have successfully completed Keyboarding/Keyboarding Applications or Introduction to Business Computer Applications and one of the following: ASO or Word Processing or BCA, and have maintained an overall "C" average. The students' attendance records should also be considered. Other prerequisites may be required by the individual school system.

English I, II, and III are prerequisites to Business English. BCA or Word Processing is prerequisite to Computer Multimedia Presentations. A basic computer course shall be prerequisite to Telecommunications. To enroll in Web Design, the student must have completed one or more of the following: Desktop Publishing, Business Computer Applications, Computer Science, Computer Multimedia or Telecommunications.

General Career and Technical Education

2.105.27 General Career and Technical Education course offerings shall be as follows.

Course Title	Recommended Grade Level	Unit(s)
Career and Technical Education Internship I	11-12	2
Career and Technical Education Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2
Education for Careers	9-12	1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1

General Cooperative Education courses shall be limited to students who meet the specific prerequisites and requirements of one of the specialized cooperative education programs.

Weegie Peabody
Executive Director

0404#044

RULE

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? Curricular Design for Exceptional Students (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). These revisions to Bulletin 741 repeal the rules that address alternate assessment and curricular design for students with disabilities in special schools. The rules are being repealed in order to be consistent with rules governing students with disabilities not attending special schools.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269, 272, (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:774 (April 2004).

Assessment

3.087.11 Repealed.

Curricular Design for Exceptional Students

3.087.15 Repealed.

Weegie Peabody
Executive Director

0404#045

RULE

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Deadline Date for Completing Endorsements (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy extends the deadline date from July 1, 2004, to August 31,

2004, for teachers to complete requirements for adding endorsements under the old regulations, prior to the new certification structure of July 1, 2002. The new deadline allows candidates an additional summer semester to complete the old requirements. This action extending the deadline date was requested by higher education institutional providers of certification coursework.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:775 (April 2004).

* * *

Deadline Date for Completing Endorsement Requirements under Guidelines that Preceded the July 1, 2002, Certification Structure

The new Louisiana certification structure became effective July 1, 2002, setting categories for certification levels as Early Childhood, Elementary, Middle School, and Secondary. Many of the old regulations for adding endorsement areas were superseded by regulations under the new certification structure.

Teachers who began requirements for adding endorsements under the old regulations are allowed until August 31, 2004, to complete endorsement requirements under the old regulations.

* * *

Weegie Peabody
Executive Director

0404#046

RULE

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? PRAXIS Exams and Passing Scores for Louisiana Certification (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy specifies the exam and passing score(s) for the following certification areas: Business Education; Middle School Science; and Middle School Social Studies. Relative to the two middle school exams, this action continues the Board's alignment of PRAXIS testing policy with the No Child Left Behind Act of 2001. Additionally, the board periodically revisits passing scores of previously adopted exams and adopts new passing scores, as is the case with the exam for Business Education.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 30:775 (April 2004).

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PRAXIS/NTE SCORES

Minimum Score Requirements for Certification in Louisiana, Effective 6/1/04

(See next pages for NTE tests/scores required for certification in Louisiana prior to 9/1/99* and as of 9/1/99)

Area Test	Area Score	Pre-Professional Skills Test			Principles of Learning & Teaching			
		**PPST:R	**PPST:W	**PPST:M	PLT K-6	PLT 5-9	OR	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---		---
Agriculture***	---	172	171	170	---	---		161
Art Education***	---	172	171	170	161	154	or	161
Biology & General Science (0030)	580	172	171	170	---	---		161
Business Education (0100)	570	172	171	170	---	---		161
Chemistry/Physics/General Science (0070)	530	172	171	170				161
Early Childhood PK-3: Elementary Education: Content Knowledge #0014	150	172	171	170	Pedagogy Requirement: Early Childhood Education (0020) 510			
Elementary Education: Through 9/30/02: Curriculum, Instruction, & Assessment (0011)	156							
Content Area Exercises (0012) Effective 10/1/02:	137	172	171	170	161	---		---
Content Knowledge (#0014) Effective 6/1/04:	147							
Content Knowledge (#0014)	150							
English Language, Literature, & Composition: Content Knowledge (0041)	160	172	171	170	---	---		161
Pedagogy (0043)	130							
French: Content Knowledge (0173)	156	172	171	170	---	---		161
German (0180)	500	172	171	170	---	---		161
Home Economics Education (0120)	510	172	171	170	---	---		161
Industrial Arts Education***	---	172	171	170	---	---		161
Mathematics: Content Knowledge (0061)	125	172	171	170	---	---		161
Effective 6/1/07	130							
Effective 6/1/10	135							
Middle School: Mathematics (0069)	148							
Middle School: Science (0439)	140							
Effective 6/1/06	145	172	171	170	---	154		---
Effective 6/1/09	150							
Middle School: Social Studies (0089)	149							
Music: Content Knowledge (0113)	151	172	171	170	161	154	or	161
ParaPro Assessment (0755)	450	---	---	---	---	---	---	---
Physical Education: Content Knowledge (0091)	146	172	171	170	161	154	or	161
Spanish: Content Knowledge (0191)	160	172	171	170	---	---		161
Social Studies: Content Knowledge (0081)	149	172	171	170	---	---		161
Interpretation of Materials (0083)	152							
Speech Communications***	---	172	171	170	---	---		161

*Individuals who achieved the required NTE score(s) may use those in lieu of the replacement PRAXIS test.

**Computerized PPST (C-PPST) available as an option.

***Area test is not required for certification in Louisiana.

PPST:R? Pre-Professional Skills Test: Reading (0710)
 PPST:W? Pre-Professional Skills Test: Writing (0720)
 PPST:M? Pre-Professional Skills Test: Mathematics (0730)
 PLT K-6? Principles of Learning & Teaching K-6 (0522)
 PLT 5-9? Principles of Learning & Teaching 5-9 (0523)
 PLT 7-12? Principles of Learning & Teaching 7-12 (0524)

Computer-Based Tests (prior to 1/16/02):

CBT Reading (0711) 319

CBT Writing (0721) 316

CBT Mathematics (0731) 315

Computerized PPST (after 1/16/02)--same passing scores as written PPST: Reading (#5710), Writing (#5720), Mathematics, (#5730)

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

Special Education Areas

Area Test	Area Score	Pre-Professional Skills Test			Pedagogy Requirement	
		**PPST:R	**PPST:W	**PPST:M		
Early Interventionist		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353)	143
Hearing Impaired		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353) Education of Deaf and Hard of Hearing Students (0271)	143 160
Mild to Moderate Disabilities		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353) Education of Exceptional Students: Mild to Moderate Disabilities (0542)	143 141
Severe to Profound Disabilities		172	171	170	Education of Exceptional Students: Core Content Knowledge (0353) Education of Exceptional Students: Severe to Profound Disabilities (0544)	143 147

Praxis/NTE Scores

Minimum Score Requirements for Certification in Louisiana, Effective 9/1/99 (and later, as noted)

Area Test	Area Score	Pre-Professional Skills Test			Principles of Learning & Teaching			
		**PPST:R	**PPST:W	**PPST:M	PLT K-6	PLT 5-9	OR	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---		---
Agriculture***	---	172	171	170	---	---		161
Art Education***	---	172	171	170	161	154	or	161
Biology & General Science (0030)	580	172	171	170	---	---		161
Business Education (0100)	540	172	171	170	---	---		161
Chemistry/Physics/General Science (0070)	530	172	171	170				161
Early Childhood Education (0020)	510	172	171	170	161	---		---
Elementary Education: Through 9/30/02: Curriculum, Instruction, & Assessment (0011)	156							
Content Area Exercises (0012)	137	172	171	170	161	---		---
Effective 10/1/02: Content Knowledge (#0014)	147							
English Language, Literature, & Composition: Content Knowledge (0041)	160							
Pedagogy (0043)	130	172	171	170	---	---		161
French (0170)	520	172	171	170	---	---		161
German (0180)	500	172	171	170	---	---		161
Home Economics Education (0120)	510	172	171	170	---	---		161
Industrial Arts Education***	---	172	171	170	---	---		161
Mathematics (0060)	550	172	171	170	---	---		161
Middle School Effective 10/1/02: Content: Knowledge (0146)	150	172	171	170	---	154		---
Music Education (0110)	530	172	171	170	161	154	or	161
Physical Education (0090)	550	172	171	170	161	154	or	161
Social Studies: Content Knowledge (0081)	149	172	171	170	---	---		161
Interpretation of Materials (0083)	152							
Spanish (0190)	540	172	171	170	---	---		161
Special Education***	---	172	171	170	161	154	or	161
Speech Communications***	---	172	171	170	---	---		161

- *Individuals who achieved the required NTE score(s) may use those in lieu of the replacement PRAXIS test.
 **Computerized PPST (C-PPST) available as an option.
 ***Area test is not required for certification in Louisiana.

PPST:R? Pre-Professional Skills Test: Reading (0710)
 PPST:W? Pre-Professional Skills Test: Writing (0720)
 PPST:M? Pre-Professional Skills Test: Mathematics (0730)
 PLT K-6? Principles of Learning & Teaching K-6 (0522)
 PLT 5-9? Principles of Learning & Teaching 5-9 (0523)
 PLT 7-12? Principles of Learning & Teaching 7-12 (0524)

Computer-Based Tests (prior to 1/16/02):

CBT Reading (0711) 319
 CBT Writing (0721) 316
 CBT Mathematics (0731) 315

**Computerized PPST (after 1/16/02)? same passing scores as written
 PPST: Reading (#5710), Writing (#5720), Mathematics, (#5730)**

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

NTE Scores

NTE Minimum Score Requirements for Certification in Louisiana Prior to September 1, 1999

Area Test	Area Score	Core Battery Test		
		CS	GK	PK
Administration and Supervision (0410)	620	---	---	---
Agriculture*	---	645	644	645
Art Education*	---	645	644	645
Biology & General Science (0030)	580	645	644	645
Business Education (0100)	540	645	644	645
Chemistry/Physics/General Science (0070)	530	645	644	645
Early Childhood Education (0020)	510	645	644	645
Education in Elementary School (0010)	550	645	644	645
English Language/Literature (0040)	550	645	644	645
French (0170)	520	645	644	645
German (0180)	500	645	644	645
Home Economics Education (0120)	510	645	644	645
Industrial Arts Education*	---	645	644	645
Mathematics (0060)	550	645	644	645
Music Education (0110)	530	645	644	645
Physical Education (0090)	550	645	644	645
Social Studies (0080)	550	645	644	645
Spanish (0190)	540	645	644	645
Special Education *	---	645	644	645
Speech*	---	645	644	645

*Area test is not required for certification in Louisiana.

CS = Core Battery: Communication Skills (0500)

GK = Core Battery: General Knowledge (0510)

PK = Core Battery: Professional Knowledge (0520)

See previous page for PRAXIS/NTE tests/scores required for certification in Louisiana, effective SEPTEMBER 1, 1999

* * *

Weegie Peabody
 Executive Director

0404#047

RULE

Board of Elementary and Secondary Education

Bulletin 1706? Regulations for Implementation
 of the Children with Exceptionalities Act
 Students with Disabilities
 (LAC 28:XLIII.373, 449, 517, 519, and 904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education adopted amendments to *Bulletin 1706? Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., (LAC 28:XLIII). The Rule changes include the removal of the declassified Individualized Education Programs (IEP), technical amendments to reference other sections of the bulletin, add a definition of proposed provisional Certificate of Achievement, and definition of preschool intervention settings. The declassified IEP is removed to clarify the responsibilities of the local education agencies (LEAs) for students who are no longer eligible as students with disabilities. The Rule on provisional Certificate of Achievement is requested to comply with the policies of the State Board of Elementary and Secondary Education. Technical changes are made to comply with the Individuals with Disabilities Education Act (IDEA), and the definitions of preschool intervention settings are made to clarify what is meant by the terminology used in the Least Restrictive Environment section of the bulletin.

Title 28

EDUCATION

**Part XLIII. Bulletin 1706? Regulations for
 Implementation of the Children with Exceptionalities
 Act (R.S. 17:1941, et seq.)**

**Subpart 1. Regulations for Students with Disabilities
 Chapter 3. Responsibilities and Activities of the
 Division of Special Populations**

§373. Administration of Funds

A. - D. ...

E. Determination of eligibility of students shall be accomplished through the verification procedures of the department regarding the accuracy of the Child Count as detailed in §491. In order to verify the accuracy of each Count submitted, the department will conduct prescribed activities:

1. - 2. ...

3. An on-site Child Count review shall be conducted in accordance with the Compliance Monitoring Procedures. If necessary, each system may be monitored for previous years to verify the accuracy of the Child Count. During fiscal monitoring of each LEA, the monitors will randomly select at least 10, but not more than 20, names from the Child Count report. For each name, the LEA shall provide the student name, date of birth, evaluation report, IEP, class rolls, and any other information that may be necessary to verify the accuracy of the Count.

E.4. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000), amended LR 30:778 (April 2004).

Chapter 4. Responsibilities of Local Educational Agencies

§449. IEP Declassification Placement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000), amended LR 29:870 (June 2003), repealed LR 30:779 (April 2004).

Chapter 5. Procedural Safeguards

§517. Confidentiality of Information

A. - L.1. ...

2. Any persons collecting or using personally identifiable information shall receive training or instruction regarding the state's policies and procedures under §355 of these regulations, 34 CFR Part 99, and Part B of IDEA.

L.3. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:873 (June 2003), LR 30:779 (April 2004).

§519. Discipline Procedures for Students with Disabilities

A. - M.4. ...

5. The hearing shall be conducted according to guidelines established in §508 of these Regulations, where appropriate, except for the timelines at §508.C.4., and according to guidelines established by the department.

M.6. - N.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:873 (June 2003), LR 30:779 (April 2004).

Chapter 9. Definitions

§904. Definitions

Certificate of Achievement-Provisional Eligibility Criteria? an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below.

1. - 1.d. ...

e. or

i. who participated in LAA in the Spring of 2002 or Spring 2003;

ii. who are disabled under the mandated criteria;

iii. who participated in LEAP Alternate Assessment in their first or third years of high school; and

iv. whose IEP team determined would not be eligible to participate in alternate assessment under the revised LEAP Alternate Assessment Participation Criteria.

2. - 2.f. ...

Preschool-Aged Students with Disabilities Placement Options? as defined below, do not reflect a continuum of least restrictive environment and may include a combination of any of these settings.

1. *Early Childhood Setting?* students receive all of their special education and related services in educational programs designed primarily for children without

disabilities. No education or related services are provided in separate special education settings. This may include, but is not limited to:

- a. regular kindergarten classes;
- b. public or private preschools;
- c. Head Start Centers;
- d. child care facilities;
- e. preschool classes offered to an eligible pre-kindergarten population by the public school system;
- f. home/early childhood combinations;
- g. home/Head Start combinations; and
- h. other combinations of early childhood settings.

2. *Early Childhood Special Education Setting?* students receive all of their special education and related services in educational programs designed primarily for children with disabilities housed in regular school buildings or other community-based settings. No education or related services are provided in early childhood settings. This may include, but is not limited to:

- a. special education classrooms in regular school buildings;
- b. special education classrooms in child care facilities, hospital facilities on an outpatient basis, or other community-based settings; and
- c. special education classrooms in trailers or portables outside regular school buildings.

3. *Home?* students receive all of their special education and related services in the principal residence of the child's family or caregivers.

4. *Part-Time Early Childhood/Part-Time Early Childhood Special Education Setting?* students receive services in multiple settings, such that general and/or special education and related services are provided at home or in educational programs designed primarily for children without disabilities, and special education and related services are provided in programs designed primarily for children with disabilities. This may include, but is not limited to:

- a. home/early childhood special education combinations;
- b. Head Start, child care, nursery school facilities, or other community-based settings with special education provided outside of the regular class;
- c. regular kindergarten classes with special education provided outside of the regular class;
- d. separate school/early childhood combinations.

5. *Residential Facility?* students receive all of their special education and related services in publicly or privately operated residential schools or residential medical facilities on an inpatient basis. This may include, but is not limited to:

- a. hospitals; and
- b. nursing homes.

6. *Separate School?* students receive all of their special education and related services in educational programs in public or private day schools designed specifically for children with disabilities.

7. *Itinerant Service outside the Home?* students receive all of their special education and related services at a school, hospital facility on an outpatient basis or other location for a short period of time (no more than three hours per week). (This does not include children who receive

services at home for three hours or less per week. This would be included in the home setting.) These services may be provided individually or to a small group of children. This may include, but is not limited to: speech instruction, APE and assistive technology up to three hours per week in a school, hospital, or other community-based setting. (A combination of services may not exceed three hours per week). Children receiving all of their special education and related services at a school, hospital facility on an outpatient basis, or other location for longer than three hours per week must be reported under early childhood special education setting or early childhood setting, depending on whether the program was designed primarily for students with or without disabilities.

8. *Reverse Mainstream Setting?* students receive all of their special education and related services in educational programs designed primarily for children with disabilities but that include 50 percent or more children without disabilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:878 (June 2003), LR 30:779 (April 2004).

Weegie Peabody
Executive Director

0404#048

RULE

Board of Elementary and Secondary Education

Bulletin 1794? State Textbook Adoption Policy and Procedure Manual? Home Study Program (LAC 28:XXXIII.517)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to *Bulletin 1794? State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:XXXIII. Bulletin 1794 is being revised in order to allow local education agencies (LEAs) to secure a deposit, equal to the replacement cost(s), for textbooks provided to students in approved home study programs. The current deposit of 50 percent does not provide for the replacement of materials that are not returned to the LEA. This action is required by action of the State Board of Elementary and Secondary Education, in exercising its administrative and oversight authority for the state textbook adoption process.

Title 28

EDUCATION

Part XXXIII. Bulletin 1794? State Textbook Adoption Policy and Procedure Manual

Chapter 5. Local School System Responsibilities

§517. Textbooks for Home Study Program

A. - A.3. ...

4. provide a deposit equal to 100 percent of the replacement cost. Such deposit will be returned when the

books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbook rental program until all textbooks debts have been cleared.

NOTE: Only one grade level set of texts per child per subject is available at any single time.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4), 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 25:1445 (August 1999), repromulgated LR 26:1001 (May 2000), amended LR 30:780 (April 2004).

Weegie Peabody
Executive Director

0404#049

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs? Discharge of Obligation (LAC 28:IV.911, 1111, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

Title 28

EDUCATION

Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.4. ...

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. - 3.c. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April 2002), LR 30:780 (April 2004).

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - B. ...

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. - 3.b. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1910 (October 1998), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:780 (April 2004).

Chapter 21. Miscellaneous Provisions and Exceptions

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - G.2. ...

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

a. the recipient is receiving federal or state public assistance;

b. the recipient's total gross, yearly income does not exceed the current federal poverty level for his/her state;

c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 30:781 (April 2004).

George Badge Eldredge
General Counsel

0404#032

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs? Maintaining Eligibility
(LAC 28:IV.705 and 805)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28

EDUCATION

Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. - 6.a. ...

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the program year (Non-Academic Program). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

A.7. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for not more than two years, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 7. ...

8. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale; and

9. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the

institution for each semester or term in the program year (Non-Academic Program). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998), amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004).

George Badge Eldredge
General Counsel

0404#038

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Youth ChalleNGe Skills Training Program (GO-Youth)
(LAC 28:IV.Chapter 15, 1701, 1901, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending the rules of the Scholarship/Grant programs (R.S.17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28

EDUCATION

Part IV. Student Financial Assistance? Higher Education Scholarship and Grant Programs

Chapter 15. Grant Opportunity for Youth ChalleNGe Skills Training Program

§1501. General Provisions

A. Legislative Authority. The Louisiana Grant Opportunity for Youth ChalleNGe Skills Training Program (the GO-Youth ChalleNGe Program) was created by Act 826 of the 2003 Regular Session of the Louisiana Legislature.

B. Purpose. It is the purpose of the program to encourage and assist those students who graduate from the Louisiana National Guard's Youth ChalleNGe Program to continue their education and enhance their employment opportunities by providing tuition at an eligible Louisiana postsecondary institution.

C. Effective Dates. The program shall be available to any student who completes the Louisiana National Guard's Youth ChalleNGe Program after June 30, 2003.

D. Eligible Courses of Study. The program grant may be used to pursue postsecondary skill or occupational training, including a vocational technical education certificate or diploma or a nonacademic undergraduate degree.

E. Eligible Institutions. Eligible students may use the program grant at the following institutions:

1. Louisiana public community colleges that offer skill or occupational training and the Louisiana Technical College; and

2. a regionally accredited independent college or university in the state that is a member of the Louisiana

Association of Independent Colleges and Universities and offers skill or occupational training.

F. Grant Amounts. The program grant shall be paid for a period not to exceed the equivalent of two program years (non-academic) in an amount:

1. equal to the actual cost of tuition for a student enrolled in a Louisiana public postsecondary institution;

2. equal to the average tuition amount paid for students attending public postsecondary institutions for a student enrolled at a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. See Section 1903.B.8.b and c for method of computation.

G. Definitions. For the purposes of this Chapter, the following definitions are applicable:

Certification? the time at which LOSFA has received both the certification from the State Military Department and the results of the FAFSA data from the federal processor.

FAFSA? the Free Application for Federal Student Aid used to apply for federal grant aid and eligibility for other federal assistance.

Graduate? a student who has completed the Louisiana GO-Youth ChalleNGe Program and, no later than 18 months after entry into the program, received a *Louisiana High School Equivalency Diploma*.

Program? the GO-Youth ChalleNGe Program

Resident of Louisiana? a student who actually resides in Louisiana during the 24 months prior to the month the student enrolls for the first time as a *full-time student* in an eligible institution as a recipient of a grant under the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004).

§1503. Establishing Initial Eligibility

A. To establish initial eligibility for participation in the program, the student must meet all of the following criteria:

1. be a citizen of the United States or designated by the U.S. Bureau of Citizenship and Immigration Services as a permanent resident; and

2. be a Resident of Louisiana, as defined in §1501; and

3. graduate from the residential phase of the Louisiana National Guard's Youth ChalleNGe Program; and

4. have earned a Louisiana High School Equivalency Diploma; and

5. not have a criminal conviction, except for misdemeanor traffic violations; and

6. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

7. submit a FAFSA for every year of enrollment in a postsecondary institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004).

§1505. Deadline to Enroll as a Full-Time Student

A. In order to receive a grant under the program, a student must have met the criteria defined in §1503 and, unless granted an exception for cause by LASFAC, enrolled as a full time student:

1. not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from the Louisiana National Guard's Youth ChalleNGe Program; or

2. if the student Joins the United States Armed Forces upon graduation from the Louisiana National Guard's Youth ChalleNGe Program, not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated Louisiana National Guard's Youth ChalleNGe Program or within one year from the date of discharge or one year from separation from active duty, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1507. Maintaining Eligibility

A. To continue receiving the program grant, the student must meet all of the following criteria:

1. have received the program grant for not more than two years, unless granted an exception for cause; and

2. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions unless required by the institution for a particular course of study) as a full-time student, unless granted an exception for cause; and

3. maintain Steady Academic Progress as defined in §301; and

4. earn at least 24 hours each program year (non-academic program) as defined in §301, unless granted an exception for cause; and

5. maintain a cumulative grade point average of at least 2.50 on a 4.00 scale at the end of each program year (non-academic program); and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. submit a FAFSA or renewal FAFSA for each academic year during which the student is enrolled in a postsecondary institution.

B. Students failing to meet the requirements listed in §1507.A.3 and 5 may have their tuition grants reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the student has maintained other continuation requirements and the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one year period is interrupted due to a student's active duty in the United States Armed Forces, the one year period will be extended for the length of time equal to the student's active duty service, not to exceed four years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1509. Responsibilities of the State Military Department (SMD)

A. The State Military Department is responsible for determining whether participants in the Louisiana Youth ChalleNGe Program meet the eligibility requirements to participate in the program set forth in §1503.A.1-6 above. The submission of a student's data for the GO-Youth ChalleNGe Program shall constitute a certification by the State Military Department that the student meets the requirements of §1503.A.1-6, specified above, except that the certification shall not include the certification of residency required by §1503.A.2, if a participant does not meet the residency requirement at the time the participant is awarded a Louisiana High School Equivalency Certificate.

B. For each student determined to be eligible to participate in the program, the State Military Department shall provide the following student data in an electronic file format acceptable to LOSFA:

1. name;
2. Social Security number;
3. permanent mailing address;
4. telephone number;
5. date enrolled in the Louisiana Youth ChalleNGe Program;
6. date the student completed the residential phase of the Louisiana National Guard's Youth ChalleNGe Program;
7. date received a Louisiana High School Equivalency Diploma;
8. students' order of merit ranking within their class; and
9. if the student does not have 24 months of Louisiana residency at the time the Louisiana High School Equivalency Certificate is awarded, the date of initial Louisiana residency.

C. To the extent funds are appropriated to the State Military Department to fund the program, the State Military Department shall take such actions as are necessary to promptly transfer such funds to LOSFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1511. Responsibilities of LOSFA

A. Upon certification by the SMD that students have met program criteria, LOSFA shall make the students eligible for the program grant as long as funds appropriated for that purpose are available.

B. LOSFA shall determine whether participants meet the residency requirement in §1503.A.2 above, if the residency requirement has not been met at the time the participant earns a Louisiana High School Equivalency Certificate.

C. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

D. LOSFA shall conduct audits of the Louisiana Youth ChalleNGe Program campuses and postsecondary institutions to ensure compliance with program requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004).

§1513. Funding Shortfall

A. LOSFA shall not make students eligible if funds appropriated for the program are not available or if funds have not been appropriated for the program.

B. In the event appropriated funds are insufficient to fully reimburse institutions for the grants for all students determined eligible for the program for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

1. Awarded students who meet the requirements for continuation will be funded first; however, if there are insufficient funds for all such students, the students who have completed the most hours will be funded first and, if there are ties, the students with the highest cumulative grade point average will be funded first.

2. Any remaining students will be awarded according to their order of merit as determined by the SMD, based on the student's performance in the Louisiana Youth Challenge Program.

C. Should additional funds become available after a budget shortfall, LOSFA shall restore students' grants in accordance with the priorities established in Paragraph B, above, until such funds are exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:784 (April 2004).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. - A.4.b. ...

B. Non-high school graduates who have earned a Louisiana High School Equivalency Diploma (GED) in lieu of a high school diploma are eligible to participate in the Leveraging Educational Assistance Partnership (LEAP) Grant Program and the Louisiana GO-Youth Challenge Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR 26:68 (January 2000), LR 27:1862 (November 2001), LR 30:784 (April 2004).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, Rockefeller State

Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the GO-Youth Challenge Program.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree), TOPS-TECH, LEAP and the GO-Youth Challenge Program. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH LEAP and the GO-Youth Challenge Program.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in LEAP only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26: 1998 (September 2000), LR 28:1864 (November 2001), LR 28:448 (March 2002), LR 30:784 (April 2004).

§1903. Responsibilities of Postsecondary Institutions

A. - A.2.h. ...

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award or a GO-Youth Challenge Program Grant and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award or a GO-Youth Challenge Program Grant; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award or a GO-Youth Challenge Program Grant is enrolled full-time, as defined in §301, at the end of the fourteenth class day for semester schools and the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session. Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session, unless the student qualifies for payment for less than full-time enrollment as defined in §2103.C. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. - 7. ...

8. upon the school's certification that a recipient of a GO-Youth ChalleNGe Program Grant is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public community colleges and Louisiana Technical College may bill for an amount up to the tuition for that institution, as defined in §301; and

b. regionally accredited independent colleges or universities in the state that are members of LAICU may bill up to an amount equal to the award amount authorized for TOPS-Tech students attending LAICU institutions during the Program Year (Non-academic Program).

9. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 10871l, as amended, for the purpose of qualifying the student or his parent or custodian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004).

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a first-time freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible college or university defined in §301. Initial enrollment requirements specific to TOPS are defined at §703A.4, for TOPS-TECH at §803.A and for Louisiana GO-Youth ChalleNGe Program at §1505.

B. ...

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, the TOPS-TECH Award, the Rockefeller State Wildlife Scholarship and the Louisiana GO-Youth ChalleNGe Program, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared

ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO-Youth ChalleNGe Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions:

E.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 289:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 30:785 (April 2004).

George Badge Eldredge
General Counsel

0404#039

RULE

Tuition Trust Authority Office of Student Financial Assistance

Bylaws (LAC 28:V.109)

The Louisiana Tuition Trust Authority is amending its START Savings Program rules (R.S. 17:3091 et seq.).

Title 28

EDUCATION

Part V. Student Financial Assistance? Higher Education Loan Program

Chapter 1. Student Financial Assistance Commission Bylaws

§109. Committees

A. Standing Committees. Unless and until otherwise decided by the vote of a simple majority of the membership of the authority, the standing committees of the authority shall consist of the following:

1. executive committee;
2. budget and finance committee;
3. investment committee;
4. planning committee;
5. rules committee; and
6. audit committee.

B. - J. ...

K. Rules Committee. The audit committee shall consist of not less than six members of the authority. Normally, to this committee shall be referred all matters involving audits of any program administered by the authority.

L. Special Committees

1. As the necessity therefor arises, the chairman may, with the concurrence of the authority, create special committees with such functions, powers and authority as may be delegated.

2. The chairman may appoint ad hoc committees for special assignments for limited periods of existence not to exceed the completion of the assigned task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1655 (December 1997), amended LR 27:190 (February 2001), LR 27:1221 (August 2001), LR 30:785 (April 2004).

George Badge Eldredge
General Counsel

0404#040

RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program? Education Savings Account
(LAC 28:VI.107, and Chapter 3)

The Louisiana Tuition Trust Authority has amended its
START Savings Program Rules (R.S. 17:309 et seq.).

Title 28 EDUCATION

Part VI. Student Financial Assistance? Higher Education Savings? Tuition Trust Authority

Chapter 1. General Provisions

§107. Applicable Definitions

* * *

Beneficiary? the person named in the education savings account owner's agreement or the person named by the Authority when authorized to make such a designation by an account owner as classified under §303.A.5, as the individual entitled to apply the account balance, or portions thereof, toward payment of their Qualified Higher Education Expenses.

Beneficiary's Family? for purposes of §303.A.5, the beneficiary's family must be one of the following persons:

a. the beneficiary's parent(s) or court ordered custodian; or

b. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

c. a person who certifies that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

* * *

Trade Date? the date that a deposit to an investment option that includes variable earnings is assigned a value in units or the date a disbursement or refund from an investment option that includes variable earnings is assigned a value.

* * *

Variable Earning? that portion of funds in an education savings account invested in equities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450

(March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004).

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An education savings account is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. Education savings accounts may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3 and 4 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.5 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

a. the beneficiary is a Louisiana resident;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and

e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

4. Procedure for Selection (To be added at a later date.)

B. - C.1. ...

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. ...

4. Transfer of account ownership is not permitted, except in the case of accounts classified under §303.A.1-4 in the event of the death of an account owner, who is a natural person or the dissolution of the account owner, who is a legal entity.

a. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, may designate a person who will become the substitute account owner in the event of the original account owner's death.

b. Eligibility for earnings enhancements will be based on the substitute account owner's classification at the time of the original account owner's death.

c. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, and who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

d. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §303.A.3 or 4, the beneficiary shall become the substitute account owner. If the account owner, who is a legal entity classified as an account owner under §303.A.3 or 4, is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

e. In the event of the death or dissolution of an other person classified as an account owner under §303.A.5, the beneficiary shall become the substitute account owner, provided that, in the case of an account classified under §303.A.5, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.5. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

5. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an account owner who is a natural person other than a natural person classified as an account owner under §303.A.5. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

D. - D.6. ...

7. That an account whose owner is a legal entity or is classified under §303.A.5 cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §303.A.5, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §313.A.4.c, however, in such case:

a. ...

b. the earnings enhancements and interest thereon will not be transferred to the new beneficiary. (Note that the deposit(s) will be eligible for earnings enhancement for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

9. That in the event an account owner who is a legal entity classified as an account owner under §303.A.3 or 4 is dissolved, the beneficiary will become the owner of the account.

10. That in the event an other person classified as an account owner under §303.A.5 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc. shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.5. If an account owner classified

under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority is authorized designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

E. - G ...

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. in the case of an account owner classified under §303.A.5:

i. the social security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §303.A.1 or 2 (does not include legal entities or other persons classified as account owners under §303.A.5) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

a.i. - b.vi. ...

c. the natural person classified as an account owner under §303.A.5 certifies that:

i. the beneficiary is a Louisiana resident;

ii. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

H.4 - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004).

§303. Account Owner Classifications

A. - A.4. ...

5. any other person or any government entity, and at the time of the initiation of the agreement:

- a. the beneficiary is a resident of the state;
- b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);
- c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;
- d. the deposits to the account are an irrevocable donation by the owner.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27: 1879 (November 2001), LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 30:787 (April 2004).

§305. Deposits to Education Savings Accounts

A. - C. ...

D. Investment Options

1. The State Treasurer shall select fixed earnings and variable earnings investment options.
2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.
3. The account owner shall select one or more of the investment options in completing the owner's agreement. If more than one option is selected, the account owner shall indicate the percentage of each deposit for each investment option and the percentages must total 100 percent.
4. Investment options and the percentage of each deposit to an option can be changed no more than once in any 12 month period.
5. Once a selection is made, all deposits shall be directed to the investment options selected and in the percentages designated.

E. Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.
2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.
 - a. Deposits by check will be assigned a trade date five days after the business day during which they were received.
 - b. Deposits made by electronic funds transfer will be assigned a trade date of one business day after the business day during which they were received.
3. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004).

§307. Allocation of Earnings Enhancements

A. Earnings enhancements are state-appropriated funds allocated to an education savings account, on behalf of the beneficiary named in the account.

1.a. The earnings enhancements for account owners who are classified under §303.A.1 and 2 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement and the account owner's total annual deposits of principal.

b. The earnings enhancements for account owners who are classified under §303.A.5 are calculated based:

- i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement and the account owner's total annual deposits of principal; or

- ii. if the beneficiary is a ward of the court, using the highest earnings enhancement available and the account owner's total annual deposits of principal.

2. ...

B. Providing Proof of Annual Federal Adjusted Gross Income

1.a. For account owners who are classified under §303.A.1 or 2 (does not include legal entities nor other persons classified as account owners under §303.A.5), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement is used in computing the annual earnings enhancement allocation.

b. For account owners who are classified under §303.A.5, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for an earnings enhancement is used in computing the annual earnings enhancement or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for an earnings enhancement in accordance with §307.D., the account owner of an education savings account classified under §303.A.1, 2 or 3 must:

- i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

- ii. provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for an earnings enhancement.

b. To be eligible in any given year for a earnings enhancement in accordance with §307.D., the account owner of an education savings account classified under §303.A.5 must:

- i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of

Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for an earnings enhancement; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owner's who are classified under §303.A.1 or 2 (does not include legal entities or other persons classified as account owners under §303.A.5), authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i a copy of the form filed with the Internal Revenue Service; or

ii a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.5, provide authorization from the beneficiary's family for the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

i a copy of the form filed with the Internal Revenue Service; or

ii a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to the beneficiary's family was not required to file an income tax return; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

B.4. - C.2. ...

D. Earnings Enhancement Rates. The earnings enhancement rates applicable to an education savings account under §303.A.1, 2 and 5 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate*
0 to \$29,999	14 percent
\$30,000 to \$44,999	12 percent
\$45,000 to \$59,999	9 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	2 percent

*Rates may be reduced pro rata, to limit Earnings Enhancements to amounts appropriated by the Legislature.

E. - F. ...

G Restrictions on allocation of earnings enhancements to education savings accounts. The allocation of earnings

enhancements is limited to education savings accounts which:

1. are not fully funded accounts (see §107); and

2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3 or 5.

H. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001) LR 27:1222 (August 2001), LR 27:1180 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Request for Disbursement

1. For each term the account owner intends to fund the beneficiary's qualified higher education expenses, the account owner shall submit a request for disbursement.

2. The request for disbursement must include:

a. the START Account number;

b. the account owner's name, address, Social Security Number and signature (may be electronic);

c. the beneficiary's name, address, and Social Security Number;

d. the amount to be disbursed and to whom; and

e. the name and address of the eligible education institution.

3. The account owner may select the investment options from which the disbursement shall be made; provided that if no selection is made, the disbursement shall be made proportionally from each investment option in the account.

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible education institution, account owner and/or beneficiary; however, for each disbursement, as a minimum, that portion of the disbursement representing earning enhancements and the interest thereon must be sent to the eligible educational institution in which the student is enrolled or intends to enroll.

7. Disbursements from investment options with variable earnings will be assigned a trade date of one business day after the business day of receipt.

B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and earnings enhancements (including earnings on earnings enhancements) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. For an educational term, the account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for that term or the value of the account, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004).

§311. Termination and Refund of an Education Savings Account

A. ...

B. Account Terminations

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, may terminate an account at any time.

2. - 5. ...

6. The account owner who is a legal entity or is classified under §303.A.5, may not terminate an account, however, the account owner who is a legal entity or is classified under §303.A.5 may designate a substitute beneficiary in accordance with §313.A.4.b.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3.

2. ...

3. No refunds shall be made to an account owner who is a legal entity classified under §303.A.3 or 4. If an account owned by a legal entity classified as an account owner under §303.A.3 or 4 is terminated by LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.5. If such an account is terminated by LATTA in accordance with §311.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc. shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §303.A.5 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.5.

5. Refunds from investment options with variable earnings will be assigned a trade date of one business day after the business day of receipt.

D. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §303.A.5, may designate the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequence must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.3 or 4 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.5 shall not be refunded.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided *false or misleading information* (see §107).

2. If the LATTA terminates an owner's agreement under this Section, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

F. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the education savings account at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

3. Except for accounts classified in accordance with §305.A.5, accounts may be terminated and fully refunded or partially refunded at the request of the account owner for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted

into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §311.F.3 are currently exempt from additional federal taxes.

G Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

H. Refund Payments. Payment of refunds for voluntary termination under §311.F or partial refunds of accounts pursuant to §311.F.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3 during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of \$3 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004).

§313. Substitution, Assignment, and Transfer

A. - A.3. ...

4. If the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §303.A.1-4, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §303.A. 3 or 4, a new account shall be opened in the name of the new beneficiary; and

i. - ii. ...

c. and the account owner is classified under §303.A. 5, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A. 5; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the earnings enhancements and interest thereon will not be transferred to the new beneficiary; (Note that the deposit(s) will be eligible for earnings enhancement for the year of the deposit.)

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 30:791 (April 2004).

§315. Miscellaneous Provisions

A. - H. ...

I. No Investment Direction. No account owner or beneficiary of an education savings account may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START Savings Program by the State Treasurer.

J. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23: 718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 30:791 (April 2004).

George Badge Eldredge
General Counsel

0404#041

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer POST Instructor Development Course (LAC 22:III.4717)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice has amended rules and regulations relative to the training of peace officers. The Peace Officers Standards and Training Council approved the policy for its Instructor Development Course at its meeting on September 9, 2003.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4717. POST Instructor Development Course

A. Eligibility

1. Only full-time peace officers who have a minimum of two years full-time service are eligible to attend an Instructor Development Course (IDC).

2. Instructor Development Course (IDC) is offered to instructors assigned full-time at an accredited POST academy or for general peace officer instructors.

B. Course Requirements

1. Full-time employees of a POST accredited training academy must attend and successfully complete IDC within one year of his/her employment at that academy.

2. Individuals who possess FBI Instructor Development Certificates issued upon completion of the FBI National Academy need not attend this course. A certificate must be furnished as proof of completion.

C. Registration

1. Each agency is allowed to submit two names for consideration. On the registration form, the agency head should mark 1st Priority or 2nd Priority. If there are vacancies after the deadline, vacancies will be filled using the 2nd Priority names.

2. There is a registration deadline for each course offered. The registration form must be completed, signed by the agency head or academy director and transmitted to POST office before the announced deadline.

D. Attendance

1. Attendance each day of the course is mandatory. Class hours are 8 a.m. until 5 p.m., Monday through Friday. Casual attire is acceptable most days except for Thursday when the student will present a prepared lesson plan.

2. If student is unable to attend a course, the student must notify POST no later than the Friday before the class begins on Monday. If POST is not notified and the student does not attend the class, the student's department could lose the privilege of sending another student to IDC for an entire year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:791 (April 2004).

Michael A. Ranatza
Executive Director

0404#031

RULE

**Office of the Governor
Used Motor Vehicle and Parts Commission**

**Licensing Used Motor Vehicle Dealers
(LAC 46:V.2901)**

Editor's Note: Section 2901 is being repromulgated to correct a typographical error. This Rule may be viewed in its entirety in the March 2004 edition of the *Louisiana Register* on pages 436-437.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, has amended rules and regulations governing dealers to be licensed in accordance with R.S. 32:773, garage liability insurance policy in accordance with R.S. 32:774:I(1) and educational seminars in accordance with R.S. 32:774(B)(3)(b)(i)(ii)(iii)(iv).

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 29. Used Motor Vehicle Dealer

§2901. Dealers to be Licensed

A. ...

B. Dealers in new and used motor homes, new and used semi-trailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, and new and used travel trailers, new and used boats, new and used boat motors, daily rentals not of current year or immediate prior year models that have been titled previously to an alternate purchaser, manufacturers and distributors and other types subject to certificate of title law and Title 32 and/or Vehicle Registration Tax Number under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Used Motor Vehicle and Parts Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773(B).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004).

John M. Torrance
Executive Director

0404#014

RULE

**Department of Health and Hospitals
Board of Electrolysis Examiners**

Electrologists Instructors Requirements
(LAC 46:XXXV.103, 105, 301, 503, 701, 707, 905,
909, 1301, 1303, 1305, 1307, 1309, 1313, and 1503)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 37:3051-3077, the Board of Electrolysis Examiners (hereinafter referred to as "Board") has amended the operating Rules and Regulations as follows.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXV. Electrologists

Chapter 1. General Provisions

§103. General Definitions

A. ...

Apprentice? an individual engaged in learning the theory and practice of electrology in an electrologist apprenticeship program.

Board? State Board of Electrolysis Examiners.

Electrologist? any person who for compensation practices electrolysis for the permanent removal of hair, except a physician licensed to practice medicine who performs electrolysis in his practice or a person who engages, on behalf of a manufacturer or distributor, solely in demonstrating the use of any machine or other article for the purpose of sale, without charge to the person who is the subject of the demonstration.

Electrologist Apprenticeship Program? an establishment which teaches or offers to teach the theory and practice of electrology and which teaches or offers to teach instructors the theory and practice of teaching electrology, without financial remuneration from the apprentice or the student instructor.

Electrologist Technician? an individual who for compensation practices electrolysis for the permanent removal of hair under the direct supervision of a licensed electrologist and who has completed a two hundred-hour course of instruction at an approved electrology school or electrologist apprenticeship program.

Electrology? the art and practice of removing hair from the normal skin of the body by the application of an electric current to the hair papilla by means of a needle or needles so as to cause growth inactivity of the hair papilla and thus permanently remove hair.

Electrolysis? the process by which hair is removed from the normal skin by the application of an electric current to the hair root by means of a needle or needles being inserted into the hair follicle, whether the process employs direct electric current or short wave alternating electric current.

School, School of Electrology, or Electrology School? an establishment which teaches or offers to teach students the theory and practice of electrology and which teaches or offers to teach student instructors the theory and practice of teaching electrology, for financial remuneration from the student, student instructor, or both.

Student? an individual engaged in learning the theory and practice of electrology at a school of electrology.

Student Instructor? an individual learning the theory and practice of teaching electrology in an electrology school or an electrologist apprenticeship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:329 (April 1984), amended LR 11:534 (May 1985), repromulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), amended LR 27:193 (February 2001), LR 30:792 (April 2004).

§105. Exceptions and Rights

A. - B. ...

C. A health history shall be completed on each patient prior to any treatment. No patient with a history of diabetes and no cardiac patient with a pacemaker shall be treated without the consent of a physician. Persons suspected of having a communicable disease shall not be treated without first having been examined by a physician. No electrologist, electrologist technician, instructor, apprentice, or student shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 27:193 (February 2001), LR 30:793 (April 2004).

Chapter 3. Board Composition, Conflict Provision and Reimbursement

§301. Composition

A. The State Board of Electrolysis Examiners is created within the Department of Health and Hospitals. It shall be composed of five members, all to be appointed by the governor to serve at his pleasure. Four members shall be licensed electrologists who have been engaged in the practice of electrology for at least the five years prior to their appointment. Of these four, two members shall be appointed from a list of four names submitted to the governor by the Louisiana Electrologist Association and two members shall be appointed from a list of four names submitted to the governor by Regional Electrologists Association of Louisiana. One member shall be appointed from a list of three physicians licensed to practice in this state and recommended by the Louisiana State Medical Society. If the governor determines that the nominees of the Louisiana Electrologist Association, the Regional Electrologists Association of Louisiana, or of the Louisiana State Medical Society are not suitable, he may decline to appoint from the list submitted and shall call upon the associations or the society to nominate an additional list of persons. He may repeat such call until a list containing a qualified person or persons meeting his approval is submitted. If the Louisiana State Medical Society does not submit a list of physicians to the governor within 30 days of any such request, the governor may appoint an additional nominee of either the Louisiana Electrologist Association or the Regional Electrologists Association of Louisiana in lieu of the licensed physician. Members serving on the board shall remain in office until their successors are appointed and take office. Members of the board shall be residents of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), amended LR 11:535 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:793 (April 2004).

Chapter 5. Organization of Board, Quorum, Meetings, Records

§503. Meetings

A. The board shall hold regular meetings at least four times each year for the purpose of examining applicants and any other time the board or its chairman deems necessary, at a time and place designated by the chairman. Special meetings may be called by the chairman upon giving at least 72 hours notice thereof by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board. Any board member who misses three consecutive meetings without just cause may be removed from the board by an affirmative vote of three board members, and replaced by the governor on the board's

initiation. All meetings of the board shall be conducted in accordance with *Roberts Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), repromulgated LR 11:535 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:793 (April 2004).

Chapter 7. General Powers and Duties of the Board

§701. Issuance of Licenses

A. The board shall be the sole and exclusive authority in the state to issue licenses to practice electrolysis and to administer the provisions of R.S. 37:3051 et seq. The board shall have authority to examine for, grant, deny, approve, revoke, suspend and renew the licenses of electrologists and shall review applications for licenses of electrologists at least four times each calendar year. It may conduct hearings on charges for the revocation or suspension of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:330 (April 1984), repromulgated LR 11:535 (May 1985), repromulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:794 (April 2004).

§707. Licenses to Apprenticeship Programs

A. ...

B. No apprenticeship program approved by the board may receive monetary compensation from an apprentice or student instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, 19:1144 (September 1993), LR 30:794 (April 2004).

Chapter 9. Licensure of Electrologists and Instructors

§905. Licensure of Instructor

A. - C.1. ...

2. has successfully completed the curriculum for instructor training in electrolysis in an instructor training program that maintains the standards established and approved by the board and is part of either an approved school of electrology or an approved apprenticeship program. Such curriculum shall be under the supervision of a licensed instructor of electrology, shall include a course of study and practice over a period of not less than four months and shall include 125 hours of teaching skills, 75 hours of facilitating/managing skills, and 150 hours of clinic-supervised practice teaching;

3. successfully achieves a minimum test score on an examination administered and approved by the board. The examination shall be given four times each calendar year at such time and place and under such supervision as the board determines and specifically at such other times as in the opinion of the board the number of applicants warrants. The board shall designate the date, time, and place of examination and give public notice thereof and, in addition, shall notify each person who has made application for examination to the board.

D. Within 10 days after each examination, the official in charge shall deliver the question and answer papers to the board. The board shall examine and rate the answers and shall transmit an official report to each applicant for license stating the rating of the candidate in each subject and whether or not the board approves the candidate for a license. If a candidate fails one or more parts of an examination, the candidate may take the parts which he has failed in a subsequent examination upon payment of a fifteen-dollar examination fee. If after two attempts the examination is not satisfactorily completed, the candidate thereafter shall be required to repeat and take the entire examination within one year of the date of the original examination.

E. An instructor training program may grant credit for the 125 hours of teaching skills and 75 hours of facilitating/managing skills to an individual who possesses a valid teaching certificate.

F. The board may provide by rule for granting credit for all or part of the 125 hours of teaching skills, the 75 hours of facilitating/managing skills, or any combination thereof for college-level courses in teaching skills and facilitating/managing skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:194 (February 2001), LR 30:794 (April 2004).

§909. Examination Schedule

A. The examination shall be given at least four times each year at a time and place as is determined by the board. Should the number of applicants warrant, additional examinations may be scheduled at the discretion of the chairman and public notice shall be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:794 (April 2004).

Chapter 13. Schools, Offices, Apprenticeship Programs; Apprenticeship Program Practitioners Premises

§1301. Requirements for Licensure of Schools of Electrolysis

A. - A.2. ...

3. a surety bond approved by the board in the amount of \$1,000 per student, or a sum amount not to exceed \$10,000 per school in favor of the state of Louisiana.

B. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), repromulgated LR 11:536 (May 1985),

amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 19:1144 (September 1993), LR 30:794 (April 2004).

§1303. Sanitary Requirements for Schools, Apprenticeship Programs, and Electrology Offices

A. - C. ...

D. Vinyl, latex, or any other protective medical examination gloves shall be used while attending electrology procedures. Hands shall be thoroughly washed with soap and water after removal of gloves. Unused gloves shall be used for each patient procedure and discarded after each use or if practitioner leaves patient's side or touches anything.

E. - K. ...

L. No electrologist, electrologist technician, instructor, apprentice or student in an apprenticeship program or school shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

M. No electrologist, electrologist technician, instructor, apprentice or student in an apprenticeship program or school shall treat a diabetic person without written authorization of the patient's treating physician.

N. All electrologists, electrologist technicians, instructors, apprentices and students, must place probe in holder of epilator when not in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:331 (April 1984), amended LR 11:536 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:194 (February 2001), LR 30:795 (April 2004).

§1305. Additional Requirements for Schools

A. ...

B. Every school shall furnish to each student upon enrollment a true signed copy of the school contract and a copy of the school manual text covering the complete school curriculum as approved by the board.

C. ...

1. the name, address, date of enrollment, telephone number and specification of day or evening class of each student, recorded on the board's record of enrollment form;

2. ...

3. a signed copy of the student's permission to receive electrolysis treatment, and any restrictions thereof.

D. Every school shall provide each student with adequate storage space for the student's clothes and effects.

E. - K. ...

L. Repealed.

M. - N. ...

O. Repealed.

P. Repealed.

Q. - T. ...

U. Repealed.

V. A professional lamp will be focused on the treatment area at all times.

W. Repealed.

X. ...

Y. Smoking is prohibited by electrologists, electrologist technicians, instructors, students, lecturers or patients during treatment.

Z. All electrologists, electrologist technicians, instructors, and students shall wear appropriate clothing, with clean fingernails, clean stockings and clean uniform, or clean smock or clean laboratory jackets.

AA. - FF.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:332 (April 1984), amended LR 11:537 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:795 (April 2004).

§1307. Additional Requirements for Offices

A. Every electrology office shall have a separate entrance away from residential rooms.

B. Separate toilet facilities must be made available without entering residential rooms.

C. Separate facilities for hand washing shall be provided separate from residential rooms.

D. - I.5. ...

J. Smoking is prohibited by electrologists, electrologist technicians, instructors, apprentices, students, lecturers or patients during treatment.

K. All electrologists, electrologist technicians, instructors, apprentices, and students shall wear appropriate clothing, with clean fingernails, and clean uniform, smock, or laboratory jacket.

L. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), repromulgated LR 11:537 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:795 (April 2004).

§1309. Regulations for Apprenticeship Programs

A. - B.3. ...

a. the owner shall provide proof of a surety bond approved by the board in the amount of \$1,000 per student, or a sum not to exceed \$10,000 per apprenticeship program in favor of the State of Louisiana.

B.3.b. - C.7. ...

D. Each supervisor of an electrologist apprentice shall furnish the apprentice with a signed copy of the contract and a copy of the text to be used.

E. ...

1. the name, current address, date of enrollment, telephone number, and specification day or evening class of each apprentice recorded on the board's record of enrollment form;

2. ...

3. Repealed.

E.4. - K. ...

L. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners,

LR 10:333 (April 1984), amended LR 11:538 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:795 (April 2004).

§1313. Additional Requirements for Apprenticeship Programs

A. ...

B. Every apprenticeship program shall furnish to each apprentice upon enrollment a true signed copy of the apprentice contract and a copy of the apprenticeship program manual text covering the complete apprenticeship program.

C. ...

1. the name, current address, date of enrollment, telephone number, and specifications of day or evening classes of each apprentice, as recorded on the board's record of enrollment form;

2. ...

3. Repealed.

4. ...

D. Every apprenticeship program shall provide each apprentice with adequate storage space for the apprentice's clothes and effects.

E. - K. ...

L. Repealed.

M. - R. ...

S. Separate toilet facilities must be made without entering residential rooms.

T. Separate facilities for handwashing shall be provided on the premises of the office separate from residential facilities.

U. Every office of electrolysis shall comply with Louisiana statutes and ordinances and be subject to Public Health and Safety standards for treating patients.

V. - Z. ...

AA. Smoking is prohibited by electrologists, electrologist technicians, instructors, apprentices, students, lecturers, or patients during treatment.

BB. All electrologists, electrologist technicians, instructors, apprentices, and students shall wear appropriate clothing, with clean fingernails, clean stockings and clean uniform, or clean smock or clean laboratory jackets.

CC. - DD.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:538 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 30:796 (April 2004).

Chapter 15. License

§1503. Renewal of License

A. - B.2. ...

C. Failure to Register

1. When any electrologist, instructor, electrolysis school, or electrologist apprenticeship program licensed hereunder fails to register and pay the annual registration fee within 30 days after the registration fee becomes due, the license or certificate of such person, school, or electrologist apprenticeship program shall be revoked automatically at the expiration of 30 days after the registration was required,

without further notice or hearing. However, any person, school, or electrologist apprenticeship program whose license or certificate is automatically revoked as provided herein may, within three years of the date of revocation, make application in writing to the board for the reinstatement of such license or certificate and, upon good cause being shown, the board in its discretion may reinstate such license or certificate upon payment of all past due renewal fees and the payment of an additional sum of \$50. The board may require as a condition of reinstatement that the person complete all or some of the past continuing education requirements within 12 months of reinstatement of the license.

2. Any person, electrolysis school, or electrologist apprenticeship program who fails within three years after revocation of a license or certificate to make written application to the board for reinstatement must reapply to the board and pay all fees required under the provisions of the rules and regulations adopted pursuant thereto. Any electrologist, instructor, or electrologist technician who fails within three years after revocation to make written application for reinstatement must successfully complete a written and practical examination prior to reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:335 (April 1984), repromulgated LR 11:540 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 27:196 (February 2001), LR 30:796 (April 2004).

Cheri L. Miller
Chairperson

0404#011

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Fees; Prescribing and Dispensing Drugs
(LAC 46:LXXXV.501 and 705)

The Louisiana Board of Veterinary Medicine amends and adopts LAC 46:LXXXV.501 and 705 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq. This text is amended to establish the current fee schedule and to establish Rules regarding prescribing and/or dispensing capture drugs for deer farmer utilization. The Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The amendments to the Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 5. Fees

§501. Fees

A. The board hereby adopts and establishes the following fees.

Licenses	
Annual renewal-active license	\$225
Annual renewal-inactive license	\$100
Annual renewal-faculty license	\$100
Duplicate license	\$ 25
Original license fee	\$225
Temporary license	\$100
Exams	
Clinical Competency Test (CCT)	\$190
National Board Exam (NBE)	\$215
State board examination	\$175
Exam and/or License Application	
Application fee	\$ 75

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by Department of Health and Hospitals, Board of Veterinary Medicine, LR 18:380 (April 1992), LR 19:1326 (October 1993), LR 23:963 (August 1997), LR 25:2408 (December 1999), LR 30:796 (April 2004).

Chapter 7. Veterinary Practice

§705. Prescribing and Dispensing Drugs

A. - N.6 ...

O. A veterinarian licensed by the board may lawfully prescribe and/or dispense Rompun (legend drug), Telazol (controlled substance), and/or Ketamine (controlled substance), or a mix of these drugs, to a deer farmer licensed by, and in good standing with, the Department of Agriculture and Forestry only under the following terms and conditions:

1. For the purpose of this Section, *deer*, *deer farmer*, and *deer farm operation* shall apply to cervids only which are further exclusively defined as *imported exotic deer and antelope*, *elk* and *farm raised white tail deer* as defined in R.S. 3:3101 et seq.

2. The veterinary-client-patient relationship must first be established, and thereafter maintained, as defined in §700 and Paragraph 705.A.2.

3. The veterinarian shall be familiar with the deer farm operation at issue and have general knowledge of the species and numbers of animals on the premises.

4. The licensed deer farmer shall personally maintain a perpetual written inventory of the drugs referenced in this Section, including the following information:

- name of drug and date purchased;
- name and address of veterinarian the drug was purchased from and a written receipt;
- amount purchased;
- date of each use;
- amount used for each administration;
- reason for each administration;
- the identity of each animal by electronic device, tattoo and/or tag upon capture; and
- the date and amount of drug wasted, spilled or lost.

5. The licensed deer farmer shall comply with all state and federal laws regarding the storage of the drugs, and the perpetual written inventory, in a double locked container when not in use.

6. The licensed deer farmer who obtains the drugs from the veterinarian shall be the only person allowed to use

or administer the drugs on his deer and for capture purposes only.

7. Prior to obtaining the referenced drugs, the licensed deer farmer must successfully complete a board approved chemical capture course. The veterinarian prescribing and/or dispensing the drugs must initially obtain and maintain in his records a copy of the deer farmer's current license issued by the Department of Agriculture and Forestry and a copy of the licensed deer farmer's current certificate verifying successful completion of the chemical capture course approved by the board. The licensed deer farmer must successfully complete a board approved chemical capture course every three consecutive calendar years.

8. The veterinarian may only lawfully prescribe and/or dispense the drugs referenced herein in minimal quantities based on the size of the herd at issue and the history of prior use, if applicable, of the drug or drugs requested by the licensed deer farmer.

9. Upon requesting a refill of, or an additional permissible amount of a drug, the licensed deer farmer shall provide to the prescribing and/or dispensing veterinarian a copy of the deer farmer's current license issued by the Department of Agriculture and Forestry, a copy of the current certificate verifying successful completion within the last three consecutive calendar years of the chemical capture course approved by the board, and a copy of the perpetual written inventory, as well as return all empty or sealed containers of the drugs in the case of a refill. The copy of the deer farmer's current license, the copy of the current certificate verifying successful completion within the last three consecutive calendar years of the board approved chemical capture course, the copy of the perpetual written inventory, and all empty or sealed containers shall be kept by the veterinarian for his record keeping purposes as required in §701.

10. Any prescribing and/or dispensing veterinarian who has reason to believe that a licensed deer farmer is not in compliance with the items and conditions of this Section, or is otherwise abusing the privileges established by this Section, shall notify, in writing, the board and the Department of Agriculture and Forestry immediately.

11. The prescribing and/or dispensing veterinarian shall comply with all state and federal laws and/or regulations regarding the prescribing and/or dispensing of Rompun (legend drug), Telazol (controlled substance), Ketamine (controlled substance), or a mix of these drugs, to a deer farmer licensed by, and in good standing with, the Department of Agriculture and Forestry.

12. Any prescribing and/or dispensing veterinarian who violates, or otherwise fails to comply with this Section, or any part thereof, including all state and federal laws and/or regulations, shall be guilty of unprofessional conduct within the meaning of R.S. 37:1526(14).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998), LR

Wendy D. Parrish
Administrative Director

0404#037

RULE

Department of Health and Hospitals Licensed Professional Vocational Rehabilitation Counselors Board of Examiners

Licensing and Advisory Opinions
(LAC 46:LXXXVI.703 and Chapter 18)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, pursuant to the authority vested in it by R.S. 37:3445, hereby promulgates the following Rule amending the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to provide for the requirements for licensing, and to add Chapter 18 to provide for advisory ethics opinions.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXVI. Vocational Rehabilitation Counselors Chapter 7. Requirements for Licensure and Renewal of License

§703. Requirements

A. - A.4. ...

5. has received a master's degree in vocational rehabilitation counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor. Such two year period of supervision must be completed within three years of the date the written proposal for such supervision is submitted to the board in accordance with §703.B.15. An applicant may subtract one year of the required professional experience for successfully completing Ph.D. requirements in a rehabilitation counseling program acceptable to the board. In order to meet the requirements of licensure, one must have a degree in vocational rehabilitation counseling or an approved related degree as listed in Section A below.

Section A
Clinical or Counseling Psychology
Professional Guidance and Counseling
Rehabilitation Studies (O.T. and P.T. excluded)
Special Education (as determined by the board)

a. The board will consider as a feasible alternative to a vocational rehabilitation degree, a related degree as listed in Section A which includes 42 hours of qualifying courses from an accredited college or university which meet the academic and training content established by the board and listed in Section B below. Both Section A and Section B are at the discretion of the board.

Section B	Hours
Orientation of Vocational Rehabilitation	3
Statistics	3
Medical and/or Psycho-Social Terminology of Disabilities Relative to Vocational Performance	3
Psychological and Social Effects of Disabilities	3
Tests and Measurements	3
Occupational Information and/or Job Placement and Job Development	3
Analysis of the Individual	3
Theories of Personality	3
Theories and Techniques of Counseling	6
Demonstrations and Practice of Counseling	3
Field Work or Practicums	9-12
Psychiatric Disorders and/or Substance Abuse	3
Vocational Analysis or Assessment of Persons with Disabilities	3
Introduction to Psychology	3
Abnormal Psychology	3
Introduction to Sociology	3
Developmental Psychology (Adult or Adolescent)	3
Ethics of Counseling	3
	66

b. A candidate for licensure must have 42 of the 66 hours enumerated, completing each course with a "C" or better. Any substitutions of similar course work will be limited and at the discretion of the board. As of July 20, 1996, anyone possessing an unrelated degree, not specific in the above text, will not be accepted even if they pursue additional course work. Should they obtain an additional degree in the related areas as specified in Section A above, this will be considered.

6. The board shall issue a license to each applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:3447 and who furnishes satisfactory evidence to the board that he has met the requirements of Paragraphs A.1 through A.4 and has a bachelor's degree in vocational rehabilitation counseling or related field as defined in Paragraph 703.A.5 and five years of work experience working under the direct supervision of a licensed vocational rehabilitation counselor which period of supervision began prior to September 1, 2004. Such five year period of supervision must be completed within six years of the date the written proposal for such supervision is submitted to the board in accordance with Paragraph 703.B.15. Except as provided in this Paragraph 703.A.6, after September 1, 2009 no license shall be issued to any applicant not meeting the requirements of Paragraphs 703.A. 1.-5.

B. - B.15.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:1570 (December 1993), LR 22:582 (July 1996), LR 30:798 (April 2004).

**Chapter 18. Guidelines for Requesting Advisory
Opinions from LLPVRC's Ethics
Committee**

§1800. General

A. Consistent with the intent of the Louisiana Licensed Professional Vocational Rehabilitation Counselors (LLPVRC) Code of Professional Ethics for Licensed Rehabilitation Counselors, the LLPVRC Ethics Committee recommends that licensed rehabilitation counselors who are considering seeking advisory opinions first consult with other rehabilitation counselors and colleagues who are knowledgeable about ethics in order to attempt to resolve questions that may easily be addressed by other knowledgeable parties. If these attempts do not result in resolution of the matter, individuals may request advisory opinions from the LLPVRC Ethics Committee.

B. The committee provides advisory opinions on selected situations having ethical implications. These advisory opinions are provided as a general educational service and are rendered in response to limited and unverified information provided to the committee. Therefore, it should not be construed as direct advice regarding the unique or specific ethical or legal action recommendations that should be followed regarding the issues raised. The considerations described by the committee's advisory opinion should be regarded only as general educational assistance and not as specific direction in any particular instance.

C. Requests should not be filed if there is reason to believe that a violation of the code has occurred. Those attempting to determine if alleged behavior violates the code may receive a response to a request for an advisory opinion that may later appear to contradict a ruling made if a complaint is actually filed. This possible incongruity might be due to the fact that advisory opinions do not allow for full disclosure of all available information in the matter.

D. Information presented in a request for an advisory opinion and the committee's response to that ruling may be presented for educational purposes to other parties in a sanitized format.

E. LLPVRC's Ethics Committee meets four times per year. Requests received will be scheduled for review at the next scheduled meeting of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3445.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:799 (April 2004).

§1801. Requesting an Advisory Opinion

A. Requests should be clear and concise and should include both the scenario and the requestor's opinion as to the standard(s) in the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that relate to the matter as well as the requestor's interpretation of how to apply the standard(s) to the scenario. Further, if the requestor is a LRC, the request should advise as to the results of consultation with other rehabilitation counselors and colleagues.

B. Requests should be sent in writing to Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, P.O. Box 41594, Baton Rouge, LA 70835-1594, Attn: Ethics Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:799 (April 2004).

Carla Seyler
Chairperson

0404#029

RULE

**Department of Health and Hospitals
Licensed Professional Vocational Rehabilitation
Counselors Board of Examiners**

Licensing Fees
(LAC 46:LXXXVI.901)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445 promulgates the following Rule amending the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to provide for fees to be charged for licensing.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXXXVI. Vocational Rehabilitation Counselors
Chapter 9. Fees**

§901. General

A. The board shall collect the following fees.

- | | |
|---|--------|
| 1. Application, license and seal | \$ 200 |
| 2. Renewal of license | \$ 100 |
| 3. Written Examination | \$ 100 |
| 4. Reissuance for lost or destroyed license | \$ 50 |

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 30:799 (April 2004).

Carla Seyler
Chairperson

0404#030

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and
Treatment Program (EPSDT)? Early Intervention
Services for Infants and Toddlers with Disabilities
(LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.Chapter 81 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 81. Early Intervention Services

§8101. Reserved.

§8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be a Medicaid eligible infant or toddler age birth to age 3; and
2. be enrolled to participate in the Part C Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004).

§8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services include diagnosis and psychological counseling/therapy for the child and his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004).

§8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the
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provisions of Part C of the Individuals with Disabilities Education Act in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004).

§8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#094

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Early Periodic Screening, Diagnosis and
Treatment Program (EPSDT)? KidMed Services
(LAC 50:XV.6705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 50:XV.6705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Rules to clarify the billing procedures for KidMed services in order to conform to HIPAA compliant standardized procedure codes and also amends the reimbursement rates to equalize fees for all providers of EPSDT consultation services.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 67. KIDMED

§6705. Reimbursement

A. ...

B. Effective October 1, 2003, reimbursement for EPSDT consultations performed by KIDMED providers and physicians is set at \$13.71.

C. Timely Filing. KIDMED medical screening claims must be submitted within 60 calendar days of the date of

service in order to be processed for reimbursement to the provider. Claims not received within the timely filing deadline may be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:800 (April 2004).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#095

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Estate Recovery Program (LAC 50:I.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts LAC 50:I.Chapter 81 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the May 20, 1996 estate recovery Rule and adopts the following provisions. The bureau shall seek recovery of Medicaid payments for long term care facility services, home and community-based services, and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 81. Estate Recovery

§8101. Definitions

Cost Effectiveness? the process whereby the Medicaid agency balances and weighs that which it may reasonably expect to recover against the time and expense of recovery. Initiating estate recovery will be deemed to be cost effective when the amount reasonably expected to be recovered exceeds the cost of recovery and is greater than \$1000.

Estate? the gross estate of the deceased as determined by Louisiana succession law and any interest in any property, whether movable or immovable, corporeal or incorporeal that the recipient had 36 months prior to his death.

Heir? a descendant in the first degree.

Homestead? a tract of land or two or more tracts of land with a residence on one tract and a field, pasture, or garden on the other tract or tracts, not exceeding 160 acres; rural or urban buildings and appurtenances owned and occupied by the decedent; or a residence, including a mobile home, owned and occupied by the decedent; or a residence regardless of whether the homeowner owns the land upon which the home or mobile home is sited. This same homestead shall be the primary residence which served as a

bona fide home and which was occupied by the recipient immediately prior to the recipient's admission to a long term care facility or when the recipient began receiving home and community-based services.

Undue Hardship? an undue hardship shall exist when initiating estate recovery would result in placing an unreasonable burden on an heir; and if an heir's family income is 300 percent or less of the U.S. Department of Health and Human Services Federal Poverty Level Guidelines as published annually in the *Federal Register*. An undue hardship may exist when:

1. the estate is the sole income producing asset of an heir and income from the estate is limited;
2. recovery would result in an heir becoming eligible to receive public assistance, including but not limited to Medicaid; or
3. any other compelling circumstances that would result in placing an unreasonable financial burden on an heir.

NOTE: An *undue hardship* does not exist if the circumstances giving rise to the hardship were created by or are the result of *estate* planning methods under which assets were sheltered or divested in order to avoid *estate* recovery. It is the obligation of the *heirs* to prove *undue hardship* by a preponderance of the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:801 (April 2004).

§8103. General Provisions

A. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the Bureau of Health Services Financing may be subject to estate recovery.

B. Recovery Limits. Recovery can only be made after the death of the recipient's surviving spouse, if any, and only at the time when the recipient has no surviving child under age 21, or a child who is blind or disabled as defined in Section 1614 of the Social Security Act.

C. Recovery Adjustments

1. Recovery may be waived in cases in which it is not cost-effective for the state to recover from the recipient's estate.

2. Recovery may be reduced in consideration of reasonable and necessary documented expenses incurred by the decedent's heirs to maintain the homestead during the period in which the recipient was in a long term care facility or received home and community-based services, if the homestead is part of the estate.

D. Recovery Notice

1. The bureau will seek recovery for medical assistance from the decedent's estate. The family or heirs will be given advance notice of the proposed action and the time frame in which they have the opportunity to apply for an undue hardship waiver.

2. The notice will be served on the executor, legally authorized representative or succession attorney of the decedent's estate. If there is no executor, legally authorized representative or succession attorney, the notice will be sent to the family or the heirs. The notice shall specify the following information:

- a. the deceased recipient's name, Social Security number and Medicaid identification number;
- b. the action the state intends to take;
- c. the reason for the action;
- d. the dates of services associated with the recovery action and the amount of the department's claim, i.e., amount to be recovered against the recipient's estate;
- e. the right to and procedure for applying for a hardship waiver;
- f. the heirs' right to a hearing;
- g. the method by which the heirs may obtain a hearing; and
- h. the time periods involved in requesting a hearing or in exercising any procedural requirements under the Medicaid Estate Recovery Program.

3. The notice will request that copies of all succession pleadings filed in connection with the succession of the decedent, including any judgment(s) of possession be provided to the bureau.

a. In the event no succession has been judicially opened, the bureau is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

E. Recovery Privilege. The claim of the Department of Health and Hospitals? Medicaid Program shall have a priority equivalent to an expense of last illness as prescribed in Civil Code Article 3252 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:801 (April 2004).

§8105. Administrative Review

A. Administrative Review of Agency Decision. Any aggrieved party may request that the agency review and reconsider any or all aspects of the particular recovery matter in which it is involved. This request must be made in writing within 20 days of receipt of the certified notice of the agency's claim for recovery. If such a request is timely made, the agency shall review the matter and shall review and consider any facts or documentation presented or forwarded in connection with the matter.

B. In addition to the provision in Subsection A above, any aggrieved party shall have the administrative appeal rights available pursuant to the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:802 (April 2004).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#093

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Mental Health Rehabilitation Accreditation (LAC 50:XV.705)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 20, 1998 Rule to revise provisions governing provider participation and the accreditation of mental health rehabilitation agencies.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 7. Providers

Subchapter A. Eligibility and Certification

§705. Accreditation

A. Currently enrolled and prospective providers of mental health rehabilitation services shall be accredited by a national accreditation organization. The department shall only accept accreditation from the following national organizations for the purposes of enrolling a provider into the Mental Health Rehabilitation (MHR) Program:

1. the Council on Accreditation (COA);
2. the Commission on Accreditation of Rehabilitation Facilities (CARF); or
3. the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

B. By July 1, 2004, all current providers shall provide the department with written documentation that identifies which national accreditation organization will be pursued. Current providers shall provide documentation of accreditation prior to March 31, 2006 as a condition of ongoing enrollment as an MHR provider.

C. Prospective providers shall meet the established provider participation requirements. In addition, prospective providers shall be required to submit proof of a request for accreditation from a national accreditation organization within six months of enrollment in the MHR program and must be fully accredited within 24 months of submitting the application for enrollment. Providers that do not submit such proof or are not accredited within 24 months shall be immediately terminated from the MHR program.

D. All enrolled providers of mental health rehabilitation services shall maintain accreditation from one of the national organizations listed in Paragraphs A.1-3 above. Denial or loss of accreditation status, or any negative change in accreditation status shall be reported to the department by the provider. The provider shall provide written notification

to the department within five working days of receiving said notice from the national accreditation organization. The written notification shall include information on the provider's denial or loss of accreditation status, or any negative change in accreditation status, the steps and timeframes, if applicable, the accreditation organization is requiring from that provider to maintain accreditation.

E. Denial or loss of accreditation status, any negative change in accreditation status and/or failure to notify the department of said denial or loss of accreditation status, or any negative change in accreditation status may result in sanctions to the mental health rehabilitation agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:802 (April 2004).

Frederick P. Cerise, MD, MPH
Secretary

0404#090

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Intermediate Care Facilities for the Mentally Retarded? Inventory for Client and Agency Planning (ICAP)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall use the Inventory for Client and Agency Planning (ICAP) to set individualized reimbursement rates for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) residents. All ICF-MR facilities shall complete and submit an ICAP and a "Louisiana Level of Need" (LA LONS) on an annual basis for all individuals in the facilities. Completion of an annual ICAP and LA LONS shall be included in the annual client evaluation process.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#096

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Intermediate Care Facilities for the Mentally Retarded? Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid to private intermediate care facilities for the mentally retarded. In state fiscal year 2003-2004 only, the reimbursement shall be 98.8 percent (a 1.2 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#092

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Nursing Facilities
Reimbursement Reduction
(LAC 50:VII.1306)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted LAC 50:VII.1306 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004

General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to, pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart I. Nursing Facilities

Chapter 13. Reimbursement

§1306. Reimbursement Adjustment

A. Effective for dates of service on or after January 1, 2004, for state fiscal year 2003-2004 only, each private nursing facility's per diem case mix adjusted rate shall be reduced by \$0.67.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:804 (April 2004).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0404#091

RULE

Department of Revenue Policy Services Division

Books of the Corporation (LAC 61:I.320)

Under the authority of R.S. 47:604, R.S. 47:605 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.320 to define "books of the corporation" relative to the computation of the corporation franchise tax.

This regulation will provide the definition of "books of the corporation" by formally adopting the federal provisions set forth in Internal Revenue Service regulations section 1.56-1(c). The "books of the corporation" are not defined in prior or current statutes and regulations. Previously, the department has informally applied these federal provisions to determine the "books of the corporation" and prioritize records to be used in the calculation of the corporation franchise tax.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 3. Corporation Franchise Tax

§320. Books of the Corporation

A. Generally the "books of the corporation" are financial statements that will include an income statement, a balance sheet (listing assets, liabilities, and owners equity including changes thereto), and other appropriate information. The following may be considered applicable financial statements.

1. Statement required to be filed with the Securities and Exchange Commission (SEC). A financial statement that is required to be filed with the Securities and Exchange Commission.

2.a. Certified audited financial statement. A certified audited financial statement that is used for credit purposes, for reporting to shareholders or for any other substantial non-tax purpose. Such a statement must be accompanied by the report of an independent (as defined in the American Institute of Certified Public Accountants Professional Standards, Code of Professional Conduct, Rule 101 and its interpretations and rulings) certified public accountant or, in the case of a foreign corporation, a similarly qualified and independent professional who is licensed in any foreign country. A financial statement is "certified audited" for purposes of this Section if it is:

i. certified to be fairly presented (an unqualified or "clean" opinion);

ii. subject to a qualified opinion that such financial statement is fairly presented subject to a concern about a contingency (a qualified "subject to" opinion);

iii. subject to a qualified opinion that such financial statement is fairly presented, except for a method of accounting with which the accountant disagrees (a qualified "except for" opinion); or

iv. subject to an adverse opinion, but only if the accountant discloses the amount of the disagreement with the statement.

b. Any other statement or report, such as a review statement or a compilation report that is not subject to a full audit is not a certified audit statement.

3. A financial statement provided to a government regulator. A financial statement that is required to be provided to the federal government, or any agency thereof (other than the Securities and Exchange Commission), a state government or agency thereof, or a political subdivision of a state or agency thereof. Except as otherwise provided herein, an income tax return, franchise tax return or other tax return prepared solely for the purpose of determining any tax liability that is filed with a federal, state or local government or agency cannot be an applicable financial statement.

4. Other financial statements. A financial statement that is used for credit purposes, for reporting to shareholders, or for any other substantial non-tax purpose, even though

such financial statement is not described in Paragraphs A.1-3 of this Section.

B. Priority Among Statements

1. In general, if a taxpayer has more than one financial statement described in Paragraphs A.1-4 of this Section, the taxpayer's applicable financial statement is the statement with the highest priority.

a. Priority is determined in the following order:

i. a financial statement described in Paragraph A.1 of this Section;

ii. a certified audited statement described in Paragraph A.2 of this Section;

iii. a financial statement provided to a government regulator described in Paragraph A.3 of this Section;

iv. any other financial statement described in Paragraph A.4 of this Section.

b. For example, Corporation A, which uses a calendar year for both financial accounting and tax purposes, prepares a financial statement for calendar year 2003 that is provided to a state regulator and an unaudited financial statement that is provided to A's creditors. The statement provided to the state regulator is A's financial statement with the highest priority and thus is A's financial statement.

2. Special priority rules for use of certified audit financial statements and other financial statements.

a. In the case of financial statements described in Paragraphs A.2 and A.4 of this Section, within each of these categories the taxpayer's applicable financial statement is determined according to the following priority:

i. a statement used for credit purposes;

ii. a statement used for disclosure to shareholders; and

iii. any other statement used for other substantial non-tax purposes.

b. For example, Corporation B uses a calendar year for both financial accounting and tax purposes. B prepares a financial statement for 2003 that it uses for credit purposes and prepares another financial statement for calendar year 2003 that it uses for disclosure to shareholders. Both financial statements are unaudited. The statement used for credit purposes is B's financial statement with the highest priority and thus is B's applicable financial statement.

3. Priority among financial statements provided a government regulator. In the case of two or more financial statements described in Paragraph A.3 of this Section that

are of equal priority, the taxpayer's applicable financial statement is determined according to the following priority:

a. a statement required to be provided to the federal government or any of its agencies;

b. a statement required to be provided to a state government or any of its agencies; and

c. a statement required to be provided to any subdivision of a state or any agency of a subdivision.

C. Whenever more than one entity, for franchise tax purposes, is included in a corporation's books, as herein defined, separate books shall be constructed for each entity doing business in Louisiana. These books shall be constructed following the same principles and methods as were employed when constructing the original books.

D. Nothing in this regulation shall restrict the secretary's authority to revise the books of the corporation as needed for the purpose of ascertaining the correct franchise tax liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:604, R.S. 47:605 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:804 (April 2004).

Cynthia Bridges
Secretary

0404#098

RULE

Department of Transportation and Development Office of Highways/Engineering

Design Standards (LAC 70:I.Chapter 9)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby adopts Chapter 9 of Title 70 entitled "Design Standards for Freeways, Arterial, Collector and Local Highways Under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System," in accordance with R.S. 48:35(C).

Title 70

TRANSPORTATION

Part I. Highway Construction

Chapter 9. Design Standards for Freeways, Arterial, Collector and Local Highways Under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

§901. Design Standards for Rural Arterial Roads

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
1	Design Speed (mph)	50 1	60 2	70
2	Number of Lanes (minimum) 3	2	2	4
3	Width of Travel Lanes (ft)	11 – 12 4	12	12
4	Width of Shoulders (minimum) (ft)			
	(a) Two Lane	8 5	8 5	N/A
	(b) Divided facilities			
	(1) Inside	4 (Paved)	4 (Paved)	4 6 (Paved)
	(2) Outside	8 5	8 5	8 – 10 7
5	Outside Shoulder Type	Aggregate (2' min paved)	Aggregate (2' min paved)	Paved
6	Parking Lane Width (ft)	N/A	N/A	N/A
7	Width of Median on Divided Facilities (ft)			
	(a) Depressed	42 – 60	42 – 60	60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
8	Fore slope (vertical – horizontal)	1:6	1:6	1:6
9	Back slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross-slope (%) 8	2.5	2.5	2.5
11	Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) 9	10	10	10
13	Minimum Radius (ft) 10 (with full superelevation)	700	1,100	1,700
14	Maximum Grade (%) 11	4	3	3
15	Minimum Vertical Clearance (ft) 12	16	16	16
16	Minimum Horizontal Clearance (ft) (from edge of travel lane)	20	30 13	34
17	Bridge Design Live Load 14	AASHTO	AASHTO	AASHTO
18	Width of Bridges (min) (face to face of bridge rail at gutter line) (ft)	Roadway width	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004).

§903. Footnotes for Rural Arterial Design Standards

A. The design speed may not be less than the current posted speed of the overall route.

B. Consider using RA-3 criteria for roadways that will be widened in the future.

C. Consider increasing to a 4-lane facility if design volume is greater than 6000 vehicles per day and 6 lanes if design volume is greater than 25,000 vehicles per day. If more than two lanes are to be provided, outside shoulders should be paved.

D. Twelve feet required when design ADT is 1500 or greater.

E. Six foot shoulders are allowed if design volume is between 400 to 2000 vehicles per day. Four foot shoulders are allowed if design volume is less than 400 vehicles per day.

F. Eight to ten feet on six lane facilities.

G. Consider using ten foot outside shoulders where trucks are greater than ten percent or if large agricultural vehicles use the roadway.

H. Two percent acceptable on rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed eight percent from the e_{max} = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum 12 feet) to provide adequate stopping sight distance on the structure.

K. Grades 1 percent higher are permissible in rolling terrain.

L. An additional six inches should be added for additional future surfacing.

M. On multilane facilities, use 32 feet.

N. For LFD and ASD designs an HST, 18 vehicle should be included as one of the live load vehicles.

O. General Note: Overlay design standards shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004).

§905. Design Standards for Freeways

Item No.	Item	Urban		Rural
		F-1	F-2	F-3 1
1	Design Speed (mph)	50	60	70
2	Level of Service	C 3	C 3	B 2
3	Number of Lanes (minimum)	4	4	4
4	Width of Travel Lanes (ft)	12	12	12
5	Width of Shoulders (ft)			
	(a) Inside 4	6	6	6
	(b) Outside 5	10	10	10
6	Shoulder Type	Paved	Paved	Paved
7	Width of Median (minimum) (ft)			
	(a) Depressed	50	68 (min) – 100 (des)	72 (min) – 100 (des)
	(b) Continuous barrier (4 lane) 6	15	15	15
	Continuous barrier (6 lane) 6	27	27	27
8	Fore Slope (vertical – horizontal)	1:4 to 1:6	1:6	1:6
9	Back Slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross Slope (%) 7	2.5	2.5	2.5
11	Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%) 8	10	10	10
13	Minimum Radius (ft) 9 (with 10% superelevation)	700	1,100	1,700
14	Maximum Grade (%) 10	4	3	3
15	Minimum Vertical Clearance (ft) 11	16	16	16
16	Width of Right-of-Way (ft)			
	(a) Depressed median	As Needed	As Needed	Varies 12
	(b) Median barrier	As Needed	As Needed	As Needed
	(c) Minimum from edge of bridge structure 13	15 – 20	15 – 20	15 – 20
17	Bridge Design Live Load 14	AASHTO	AASHTO	AASHTO
18	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	Roadway Width	Roadway Width	Roadway Width
19	Horizontal Clearance (from edge of travel lane) (ft)			
	(a) 1:4 Fore slope	30	N/A	N/A
	(b) 1:6 Fore slope	22	32	34

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004).

§907. Footnotes for Freeway Design Standards

- A. These standards may be used in urban areas.
- B. Level of Service C can be used in urban areas.
- C. Level of Service D can be used in heavily developed urban areas.
- D. Four feet to be paved, 10 feet to be paved on 6 lane facilities, 12 feet to be paved on 6 lane facilities with truck DDHV greater than 250.
- E. Twelve feet paved when truck DDHV is greater than 250.
- F. For larger medians two barriers may be required. The maximum offset of 15 feet from barrier to edge of travel lane shall not be exceeded.
- G. Two percent permissible for rehabilitation projects.
- H. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

I. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

J. Grades 1 percent higher may be used in urban areas.

K. An additional 6 inches should be added for additional future surfacing. Seventeen feet is required for trusses and pedestrian overpasses.

L. As needed for urban projects: 300 feet to 330 feet for rural projects depending on median width.

M. Twenty-five feet shall generally be provided in accordance with EDSM II.1.1.1.

N. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

O. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:807 (April 2004).

§909. Design Standards for Local Roads and Streets

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
1	Design Speed (mph) 1	30	40	50	20	30
2	Average Daily Traffic	0 – 250	250 – 400	Over 400	N/A	N/A
3	Typical Number of Lanes	2	2	2	2	2
4	Minimum Width of Travel Lanes (ft)	9	9	11 – 12 2	10 – 11 3	10 – 11 3
5	Minimum Width of Shoulders (ft) 4	2	2	5 – 8 5	When used 6	When used 6
6	Shoulder Type	Aggregate	Aggregate	Aggregate	Paved	Paved
7	Minimum Width of Parking Lanes (where used) (ft)	N/A	N/A	N/A	7 – Residential 8 – Industrial	7 – Residential 8 – Industrial
8	Minimum Width of Sidewalk (where used) (ft)					
	(a) Offset from curb	N/A	N/A	N/A	4	4
	(b) Adjacent to curb	N/A	N/A	N/A	6	6
9	Fore Slope (vertical – horizontal)	1:3 7	1:3 7	1:4	1:3	1:3
10	Back Slope (vertical – horizontal)	1:2	1:2	1:3	1:2	1:2
11	Pavement Cross Slope (%) 8	2.5	2.5	2.5	2.5	2.5
12	Stopping Sight Distance (ft)	200	305	425	115	200
13	Maximum Superelevation (%)	10 9	10 9	10 9	4	4
14	Minimum Radius (ft) 10, 11					
	(a) With normal crown (-2.5% cross slope)	7,585	11,625	16,700	100	325
	(b) With 2.5% superelevation	1,930	3,250	5,000	85	250
	(c) With full superelevation	250	450	700	80	235
15	Maximum Grade (%) 12	7	7	6	10	9
16	Minimum Vertical Clearance (ft)	15	15	15	15	15
17	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	10 7	10 7	Varies 13	7 – Shoulder facilities	10 – Shoulder facilities
	(b) From back of curb	N/A	N/A	N/A	1 (min) – 6 (des)	1 (min) – 6 (des)
18	Bridge Design Load Live 14	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
19	Minimum Width of Bridges (face to face of bridge rail at gutter line)	Traveled way plus 4'	Traveled way plus 4'	Traveled 15 way plus 6'	Traveled 16, 17 way plus 8'	Traveled 16, 17 way plus 8'
20	Bridge End Treatment	Yes	Yes	Yes	16	16

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004).

§911. Footnotes for Local Road and Street Design Standards

A. The design speed may not be less than the current posted speed of the overall route.

B. For ADT greater than 2000, use 12-foot lane widths.

C. Lane widths in residential areas may be reduced to 9 feet if necessary. Twelve foot lane widths are preferred in industrial areas.

D. Where bicycles are prevalent, a paved 4-foot shoulder should be provided.

E. For ADT less than 1500, the minimum shoulder width may be reduced to 4 feet if necessary. For ADT 1500 to 2000, use 6-foot shoulders. For ADT over 2000, use 8-foot shoulders.

F. Select the shoulder width that corresponds to the ADT shown in the rural local standards.

G. The value shown should be provided on new roadways. A lesser value may be used on existing roads depending on soil stability, right-of-way constraints, the safety record of the road, and the size vehicles using the road. Guidance is available in the publication entitled "AASHTO Guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)."

H. Two percent acceptable for rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. On roadways with an ADT < 400, a sharper radius may be used on fully superelevated roadways if necessary. For specific values refer to the publication entitled "AASHTO Guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)." Different radii apply at divisional islands.

L. Grades 2 percent higher may be used in rural rolling terrain.

M. Varies from 14 feet to 28 feet. Refer to the Roadside Design Guide for the applicable value. For spot replacement projects refer to the applicable part of Footnote G.

N. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

O. For ADT greater than 2000, use roadway width.

P. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

Q. When shoulders are provided, the minimum bridge width shall be the larger of that shown or the roadway width.

R. These standards shall not apply to:

1. dead end roads (open at one end only);

2. roads that are dependent on dead end roads for access.

S. Urban standards may be applied to any street for which curb is to be used and the posted speed is less than 50 mph, or any street for which a posted speed of 30 mph or less would be appropriate.

T. On spot replacement projects the existing geometry and superelevation may remain providing there are no safety problems.

U. The appropriate local governing body is authorized to make design exceptions for specific items listed in these standards, with proper engineering justification.

V. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:808 (April 2004).

§913. Design Standards for Rural Collector Roads

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
1	Average Daily Traffic 1	Under 400	400 – 2000	Over 2000
2	Design Speed (mph)	40 – 60 2	50 – 60 2	60
3	Number of Lanes	2	2	2 – 4 3
4	Width of Travel Lanes (ft)	11	11 – 12 4	12
5	Width of Shoulders (ft)			
	(a) Inside on multilane facilities	N/A	N/A	4
	(b) Outside	2 5	4 – 5 6	8
6	Shoulder Type	Paved	Aggregate (2' min paved)	Aggregate (2' min paved) (4' min paved on 4-lane facilities)
7	Width of Parking Lanes (ft)	N/A	N/A	N/A
8	Width of Median on multilane facilities (ft)			
	(a) Depressed	N/A	N/A	42 – 60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (ft)			
	(a) Offset from curb	N/A	N/A	N/A
	(b) Adjacent to curb	N/A	N/A	N/A
10	Fore Slope (vertical – horizontal)	1:4	1:4	1:6
11	Back Slope (vertical – horizontal)	1:4 7	1:4	1:4
12	Pavement Cross Slope (%) 8	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305 (40 mph) 425 (50 mph) 570 (60 mph)	425 (50 mph) 570 (60 mph)	570
14	Maximum Superelevation (%) 9	10	10	10
15	Minimum Radius (ft) 10 (with full superelevation)	450 11	700 12	1,100
16	Maximum Grade (%)	7 (40 mph) 6 (50 mph) 5 (60 mph)	6 (50 mph) 5 (60 mph)	5
17	Minimum Vertical Clearance (ft) 13	15	15	15
18	Minimum Horizontal Clearance (ft) (from edge of travel lane)	10, 14, 24 14	26 (50 mph) 32 (60 mph)	30
19	Bridge Design Live Load 15	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	30	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004).

§915. Footnotes for Rural Collector Design Standards

A. Current traffic may be used to determine the appropriate classification.

B. The design speed may not be less than the current posted speed of the overall route.

C. For rolling terrain, limited passing sight distance and high percentage trucks, further analysis should be made to

determine if additional lanes are required when ADT is above 7,000.

D. For design speeds greater than 50 mph and ADT greater than 1,500 use 12-foot lanes.

E. Where bicycle activity is observed, a 4-foot shoulder should be provided.

F. For ADT greater than 1,500 use 6 foot shoulders.

G. 1:3 back slopes are allowed where right-of-way restrictions dictate.

H. Two percent acceptable for rehabilitation projects.

I. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the e_{max} = 10 percent table.

J. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Radius based on 40 mph. Radii for 50 mph and 60 mph are shown under the RC-2 and RC-3 classifications respectively.

L. Radius based on 50 mph. The radius for 60 mph is shown under the RC-3 classification.

M. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. The lower value is based on a 40 mph design speed, the middle value for 50 mph and the upper value for 60 mph.

O. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

P. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004).

§917. Design Standards for Urban and Suburban Arterial Roads and Streets

Item No.	Item	Urban			Suburban 1	
		UA-1	UA-2	UA-3	SA-1	SA-2
1	Design Speed (mph)	40	45	50	50	55
2	Level of Service	C 2	C 2	C 2	C	C
3	Number of Lanes	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)
4	Width of Travel Lanes (ft)	11	11 – 12	12	12	12
5	Width of Shoulders (minimum) (ft) 3					
	(a) Inside on multilane facilities	N/A	N/A	4	4	4
	(b) Outside	8	8	8	8	8
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Parking Lane Width (ft)	10 – 12	10 – 12	N/A	N/A	N/A
8	Width of Median on Multilane Facilities (ft)					
	(a) Depressed	N/A	N/A	30	30 – 42	42
	(b) Raised	6 – 30 4	6 – 30 4	30	30	30
	(c) Two way left turn lane	11 – 14 typ.	11 – 14 typ.	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft) 5					
	(a) Offset from curb	4	4	4	4	4
	(b) Adjacent to curb	6	6	N/A	N/A	N/A
10	Fore slope (vertical – horizontal)	1:3 (min) – 1:4 (des)	1:3 (min) – 1:4 (des)	1:4	1:4 to 1:6	1:6
11	Back slope (vertical – horizontal)	1:3	1:3	1:3	1:3	1:4
12	Pavement Cross-slope (%) 6	2.5	2.5	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305	360	425	425	495
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) 7, 8					
	(a) With normal crown (-2.5% cross-slope)	700	1,000	16,700	16,700	19,700
	(b) With 2.5% superelevation	550	750	3,500	3,500	5,250
	(c) With full superelevation	500	700	1,000	1,000	1,100
16	Maximum Grade (%)	7	6	6	4 9	4
17	Minimum Vertical Clearance (ft) 10	16	16	16	16	16
18	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	18 11	25 11	28	20 – 28 12	24
	(b) Outside (from back of curb) (when curb is used)	6 (min) – 15 (des)	6 (min) – 15 (des)	19	10 (1:6) 18 (1:4)	14
	(c) Median (from back of curb) (when curb is used)	4 (min) – 15 (des)	4 (min) – 15 (des)	13	12	18
19	Bridge Design Live Load 13	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line) 14					
	(a) Curbed facilities (without sidewalks)	Traveled 15 way plus 8'	Traveled 15 way plus 8'	Roadway width	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	15	15	Yes	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:810 (April 2004).

§919. Footnotes for Urban and Suburban Arterial Design Standards

A. These standards may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The standard selected should be based on the posted speed.

B. Level of service D allowable in heavily developed urban areas.

C. Curb may be used in place of shoulders on UA-1 and UA-2 facilities. If used on suburban facilities, it shall be placed at the edge of shoulder on two lane facilities and 1 foot beyond the edge of the shoulders on multilane facilities. If used on UA-3 facilities, it shall be placed at the edge of the shoulder. For design speeds greater than 45 mph, curb will not be placed in front of guardrail.

D. The minimum median width may be reduced to 4 feet if curb offsets are not provided. On principal arterials, particularly at intersections, the upper limit should be considered.

E. If shoulders are used, sidewalks should be separated from the shoulder.

F. Two percent acceptable for rehabilitation projects.

G. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

H. Different radii apply at divisional islands.

I. Grades one percent higher are permissible in rolling terrain.

J. An additional 6 inches should be added for additional future surfacing.

K. Applies to facilities with shoulders. Refer to the Roadside Design Guide when 1:3 fore slopes are used.

L. Use the larger value when 1:4 fore slopes are used.

M. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

N. For suburban roads with shoulders and curbs, consider widening each bridge 8 feet to allow for a future lane and 4 foot offsets to bridge rail.

O. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

P. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with RS. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004).

§921. Design Standards for Urban and Suburban Collector Roads and Streets

Item No.	Item	Urban		Suburban 1		
		UC-1	UC-2	SC-1	SC-2	SC-3
1	Average Daily Traffic	N/A	N/A	N/A	N/A	N/A
2	Design Speed (mph)	30 - 40	45	40	45	50
3	Number of Lanes (minimum)	2 - 4	2 - 4	2 - 4	2 - 4	2 - 4
4	Width of Travel Lanes (ft)	11 - 12	12	11	11	11 - 12 2
5	Width of Shoulders (ft)					
	(a) Inside on multilane facilities	N/A	N/A	N/A	N/A	4 3
	(b) Outside	8 2, 4	8 2, 4	4 - 5 4	4 - 5 4	6, 8 5
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Width of Parking Lanes (where used) (ft)	7 - 10 6	11	7 - 10 6	11	N/A
8	Width of Median on multilane facilities (ft)					
	(a) Depressed	N/A	N/A	N/A	N/A	30
	(b) Raised	4 (min) - 30 (des)	4 (min) - 30 (des)	4 (min) - 30 (des)	4 (min) - 30 (des)	26
	(c) Two way left turn lane	11 - 14 typ.	11 - 14 typ.	11 - 14 typ.	11 - 14 typ.	N/A
9	Width of Sidewalk (minimum) (where used) (ft) 7					
	(a) Offset from curb	4	4	4	4	4
	(b) Adjacent to curb	6	6	6	6	N/A
10	Fore Slope (vertical - horizontal)	1:3 - 1:4 8	1:3 - 1:4 8	1:4	1:4	1:4
11	Back Slope (vertical - horizontal)	1:3 9	1:3	1:3	1:3	1:3
12	Pavement Cross Slope (%) 10	2.5	2.5	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	200 (30 mph) 305 (40 mph)	360	305	360	425
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft) 11, 12					
	(a) With normal crown (-2.5% cross slope)	325 (30 mph) 700 (40 mph)	1,000	700	1,000	16,700
	(b) With 2.5% superelevation	250 (30 mph) 550 (40 mph)	750	550	750	4,400
	(c) With full superelevation	235 (30 mph) 500 (40 mph)	700	500	700	900
16	Maximum Grade (%)	9	8	7	6	6
17	Minimum Vertical Clearance (ft) 13	15	15	15	15	15

18	Minimum Horizontal Clearance (ft)					
	(a) From edge of travel lane	10	10	10	10	26 – 28 14
	(b) Outside (from back of curb) (when curb is used)	1 (min) – 6 (des)	6 (min) – 15 (des)	1 (min) – 6 (des)	6 (min) – 15 (des)	17 – 19 15
	(c) Median (from back of curb) (when curb is used)	1 (min) – 6 (des)	4 (min) – 15 (des)	1 (min) – 6 (des)	4 (min) – 15 (des)	13
19	Bridge Design Live Load 16	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Traveled 17 way plus 8'	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	17	17	17	17	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:811 (April 2004).

§923. Footnotes for Urban and Suburban Collector Design Standards

A. These standards may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The standard selected should be based on the posted speed.

B. For ADT less than 2,000 refer to Exhibit 6-5 on page 429 in the "AASHTO 2001 Policy on Geometric Design of Highways and Streets."

C. Applicable to depressed medians only.

D. Curb may be used instead of shoulder. Where bicycle activity is observed, a bike lane should be considered.

E. If curb will not be used, shoulder widths may be reduced, see Footnote B. When curb is used on multilane facilities, it shall be placed at the edge of shoulder. When curb is used on two-lane facilities, 8 foot shoulders will be required if a future center turn lane will be added. Curb will not be placed in front of guardrail.

F. Seven and 8foot widths are limited to residential areas for 30 and 40 mph respectively.

G. If shoulders are used, sidewalks should be separated from shoulder.

H. Where shoulders are used, 1:4 minimum fore slopes are required through the limits of horizontal clearance.

I. 1:2 back slopes are allowed where right of way restrictions dictate.

J. Two percent acceptable for rehabilitation projects.

K. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

L. Different radii apply at divisional islands.

M. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. The higher value is applicable to roadways with an ADT greater than 6,000.

O. These values apply to roadways with 8-foot shoulders.

P. For LFD and ASD designs a HST-18 vehicle should be included as one of the live load vehicles.

Q. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

R. General Note: Overlay design standards (separate sheet) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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